## House of Commons Foreign Affairs Committee

# FOREIGN POLICY ASPECTS OF THE WAR AGAINST TERRORISM

Seventh Report of Session 2001–02

Report, together with Proceedings of the Committee, Minutes of Evidence and Appendices

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#### **Footnotes**

In the footnotes of this Report, references to oral evidence are indicated by 'Q' followed by the question number. Reference to written evidence are indicated by the page number as in 'Ev 12'.

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#### SEVENTH REPORT

#### LIST OF CONCLUSIONS AND RECOMMENDATIONS

- (a) We recommend that in its response to this Report the Government state whether or not the British intelligence agencies on which the security of the United Kingdom depends have the human, financial and other resources they require to offer the best possible protection against terrorist attacks on the United Kingdom or on British posts and facilities overseas (paragraph 26).
- (b) We conclude that the Government was right to publish the coalition "Campaign Objectives" and the document outlining "Responsibility for the terrorist atrocities." These publications went some way towards reassuring Parliament, the British public and Britain's coalition partners of why military action against Afghanistan was necessary (paragraph 40).
- (c) We conclude that the Prime Minister and the Foreign Secretary were right to invest substantial time and effort overseas in helping the United States to mobilise the international coalition against terrorism (paragraph 46).
- (d) We conclude that NATO was entirely right to invoke Article V, and commend the Secretary General on his initiative in the aftermath of the 11 September attacks (paragraph 49).
- (e) We commend the Government's efforts to include other countries' military contributions in the war against terrorism, and recommend that it continue to press for similar coalitions where appropriate in any future military operations (paragraph 53).
- (f) We recommend that the FCO clarify how it sees the role of NATO in the conduct of US-led military operations against terrorists or the states that sponsor them. We further recommend that the FCO clarify NATO's role in providing and coordinating intelligence in the war against terrorism (paragraph 55).
- (g) We recommend that in its response to this Report the Foreign and Commonwealth Office provide a full statement on EU-wide co-operation and progress in countering terrorism (paragraph 60).
- (h) We congratulate Sir Jeremy Greenstock on his appointment as Chairman of the Counter-Terrorism Committee. We conclude that the Government was right to push for a prominent UN role in the war against terrorism, and commend its work towards this end in the immediate aftermath of the 11 September attacks (Paragraph 69).
- (i) We commend the efforts of British diplomats to persuade the Taliban to surrender Osama bin Laden after 11 September. We conclude that this was the right course of action, which helped to hold together the international coalition during the subsequent military campaign in Afghanistan (paragraph 75).

- (j) We conclude that the British and American governments were vindicated in their judgments that the Taliban could be removed speedily, and with loss of life that appears to have been far lower than was predicted early in the military campaign (paragraph 81).
- (k) We recommend that the Government investigate the circumstances which led to the dangerous misunderstanding with Britain's allies at Bagram. We trust that measures will be taken to ensure that British personnel will not be endangered unnecessarily through such misunderstandings in future operations (paragraph 84).
- (1) We also recommend that the Government investigate the extent to which the confusion and blurred lines of communication arose from the fact that Mr Bergne was appointed by the Prime Minister rather than by the FCO. Lessons need to be learned about relations between the Foreign Office and the Prime Minister's personal appointees in such circumstances (paragraph 85).
- (m) We commend the Government for the speed with which it deployed a sizeable contingent of UK personnel to CENTCOM, and conclude that this deployment made an important contribution to close co-operation with the United States in the campaign in Afghanistan (paragraph 91).
- (n) We commend the Government for realising, early in the Afghanistan campaign, the necessity to look beyond its military aspects. We conclude that the Government's planning in this area contributed to the rapid and successful establishment of an interim authority after the fall of the Taliban (paragraph 95).
- (o) We recommend that the Government consider carefully, with the United States and other coalition partners, the options for maintaining and increasing security in Afghanistan, both during and for a significant period after the June 2002 Loya Jirga. This should include consideration of the extension of ISAF beyond Kabul and its immediate area (paragraph 117).
- (p) We commend the British Government for being amongst the first to have both signed and ratified all 12 Conventions related to terrorism and recommend that the Foreign and Commonwealth Office makes full use of its posts overseas to try to ensure that other UN member states do likewise (paragraph 126).
- (q) We recommend that, given the additional demands being placed on the UN Secretariat by the work of the Counter-Terrorism Committee, the Government do all it can to ensure that the CTC has adequate resources to fulfil its functions (paragraph 130).
- (r) We recommend that the Government continue to do its utmost to ensure that adequate provision is made for the safety and security of prisoners in military operations in which British forces are engaged (paragraph 136).
- (s) We conclude in relation to the detention of Taliban and al Qaeda suspects, as we do in relation to other matters, that the Government must strive to uphold standards of international law, and, to the greatest extent possible, to ensure that prisoners are tried in full accordance with internationally accepted norms of justice (paragraph 144).

- (t) We recommend that the Government consider whether the Geneva Conventions remain wholly appropriate in the modern conduct of warfare. If they do not, there may be a need to work towards a new international consensus to amend the Conventions, to ensure that the protection that they provide to civilians and combatants is maintained (paragraph 145).
- (u) We recommend that the Government seek to allay the concerns of the US Administration about the International Criminal Court, with a view to persuading it to reconsider its renunciation of the ICC Treaty (paragraph 151).
- (v) We conclude that a linkage between the conflict in the Middle East and the war against terrorism is widely perceived among populations and governments in the region. Both the US and British governments appear to accept that the conflict is a factor which severely complicates their conduct of the war, although it does not weaken their resolve. While the conflict in the Middle East requires swift and fair resolution on its own merits, this perceived linkage lends added urgency to the search for peace (paragraph 161).
- (w) We recommend that the Government consider carefully how to help allies in the Islamic world to address the social, economic and political conditions that have led to the growth of Islamic extremism among their populations (paragraph 167).
- (x) We recommend that in its response to this Report the Government state clearly what is its policy on first use of nuclear weapons, with particular reference to dealing with the threat posed by chemical and biological weapons of mass destruction (paragraph 171).
- (y) We recommend that in its response to this Report the Government set out its policy on the development of new tactical nuclear weapons (paragraph 173).
- (z) We conclude that the Government was right to highlight in grave but measured terms the threat of weapons of mass destruction attack by terrorists, including the threat to the United Kingdom (paragraph 176).
- (aa) We recommend that the Government continue to urge the international community to do its utmost to prevent nuclear, biological and chemical weapons materials getting into the hands of terrorists (paragraph 181).
- (bb) We recommend that the Government do its utmost to ensure that the new director of the Organisation for the Prohibition of Chemical Weapons is able to act independently, and for the benefit of all member states of the Organisation (paragraph 185).
- (cc) We commend the Government for publishing its Green Paper on strengthening the Biological and Toxin Weapons Convention, and recommend that it continue its efforts to persuade the United States to agree an effective verification regime (paragraph 189).
- (dd) We recommend that the FCO set out clearly and fully in its response to this Report its specific responsibilities for preventing weapons of mass destruction attacks against the United Kingdom, its citizens and its interests overseas (paragraph 190).

- (ee) Government Communications Head Quarters (GCHQ) and the Secret Intelligence Service are agencies for which the FCO is responsible. We recommend that the FCO, through these agencies, ensure that the highest priority is given to identification and prevention of attack on the United Kingdom or on British interests overseas by terrorists using weapons of mass destruction (paragraph 191).
- (ff) We conclude that the Government is right to maintain its constructive and—whenever necessary—critical engagement with Iran (paragraph 201).
- (gg) We recommend that in its response to this Report the Government clarify whether its policy is to bring about 'regime change' in Iraq (paragraph 209).
- (hh) We recommend that the Government propose a deadline for Iraqi compliance with UN Security Council Resolutions requiring Iraq to allow inspection of its nuclear, chemical and biological weapons programmes (paragraph 212).
- (ii) The Committee recommends that the Foreign and Commonwealth Office in its response to this report sets out the British Government's view as to the circumstances in which a pre-emptive military strike would be legally justified (paragraph 224).
- (jj) We recommend that the Government work with the United States to ensure that any action taken against Iraq, or against any other state in the war against terrorism, conforms with international law (paragraph 227).
- (kk) We recommend that the Government follow the precedent which it set in the period leading up to military action in Afghanistan, and publish the fullest possible documentation on the need for any further military action, before such action is seriously contemplated. While nothing should be published which might compromise sources or methods of intelligence, the Government must try to secure the widest possible support in Parliament and among the British people if it is proposing to risk the lives of British servicemen and women as part of a further phase of the war against terrorism (paragraph 233).
- (ll) We commend Ministers for what they have already done to build and maintain the international coalition against terrorism. We recommend that the Government continue to give a high priority to maintaining the coalition; to achieving the full commitment of its members; and in particular to persuading the United States of the value of continuing to operate through it (paragraph 237).
- (mm)The war against terrorism is an unplanned and unsought conflict. But when the first hijacked airliner struck the World Trade Center, war became necessary and, once entered upon, war must be pursued vigorously and with all appropriate means (paragraph?).
- (nn) We believe that the international coalition leadership, especially that of the United States and the United Kingdom, has performed remarkably well. Resolve and determination have been tempered with restraint and sensitivity. The political leaderships of both countries deserve support and understanding (paragraph 239).

- (00) The military campaign is likely to be long and may spread beyond Afghanistan. Coalition forces directly engaged in or supporting the campaign are performing a difficult and dangerous task with the skill and dedication which has come to be expected of them, but which is greatly appreciated and admired (paragraph 240).
- (pp) We concede that the great advantage of hindsight is that it allows us 20/20 vision of the precursors of war which were previously unseen, misinterpreted, or ignored. If one lesson comes out of our consideration of why the attacks of 11 September 2001 were able to succeed, it is that priority must be given to the gathering, assessment and use of high-grade intelligence information. Without that information, this country and its allies are appallingly vulnerable (paragraph 241).
- (qq) But to 'know thine enemy' is not enough. We also need to determine how the conditions that have contributed to the development of terrorism can be removed, or at least reduced. The answers to those questions will provide a far safer world than even the best intelligence and preparedness can provide. As the war against terrorism proceeds, this country and its coalition allies must seek out those answers, and must learn about and deal sensitively with the causes of terrorism (paragraph 242).

#### The Foreign Affairs Committee has agreed to the following Report:

#### FOREIGN POLICY ASPECTS OF THE WAR AGAINST TERRORISM

- 1. On the morning of 11 September 2001, two civilian airliners crashed into the World Trade Center in New York and a third struck the Pentagon in Washington. A fourth crashed in Pennsylvania. All of those on board the aircraft died, as did thousands on the ground.
- 2. Shortly after the attacks, President George W Bush declared a "war on terrorism." The Prime Minister offered support to the United States in the war, because "whatever the dangers of the action we take, the dangers of inaction are far, far greater."
- 3. The war against terrorism has changed the priorities of the United Kingdom's foreign policy. It has highlighted the importance of Britain's major alliances, and has caused the Government to develop a more pragmatic approach towards regimes with which it has major differences. This war has shifted the priorities of the United Nations and the European Union, and has affected the United Kingdom's and its allies' approach to NATO. It has underlined sharply the extent to which conflicts in Kashmir, Central Asia and—most obviously—the Middle East affect Britain's security and national interests. The threat that terrorists might gain access to weapons of mass destruction has also been treated with greater urgency, and this has affected the Government's policies towards 'states of concern,' particularly Iraq.
- 4. Crucially, the war against terrorism has also sparked an important and ongoing debate about how Britain might best forge strong, positive relationships with governments and people in the Islamic world. Winning the war necessitates the avoidance of a 'clash of civilizations,' which Osama bin Laden clearly sought to create through his devastating attacks on 11 September. This debate has also affected the priorities of the BBC World Service and the British Council.
- 5. In this Report, we examine the Government's foreign policies pre-11 September in some of the areas which have subsequently emerged as of central importance to the success of the war. We then consider the Government's immediate reaction to the 11 September attacks, and the military campaign in Afghanistan leading to the fall of the Taliban, before examining the conduct of the war to May 2002. The Report concludes with an assessment of the threats posed by weapons of mass destruction and states of concern, and highlights some considerations for the future.
- 6. The Committee visited New York and Washington just eight weeks after the attacks on those cities. Our impressions of that visit are recorded in our Report of December 2001<sup>2</sup> and in this Report. Some of us returned to the United States in March 2002, when we held important discussions at the United Nations and with the US Administration. That visit provided valuable material for this Report, and also helped to inform the debate on British-US relations which took place in Westminster Hall on 25 April.<sup>3</sup> Visits in October 2001, to Brussels, in January 2002, to Madrid, and in March 2002, to Turkey, also provided valuable insights. At Westminster, we heard oral evidence from the Secretary of State, the Rt hon Jack Straw, the Parliamentary Under Secretary of State responsible for the Middle East, Ben Bradshaw, Mr Paul Bergne

<sup>3</sup> Official Report, 25 April 2002, col. 137WH.

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<sup>&</sup>lt;sup>1</sup> Tony Blair, speech to the Labour Party conference, 3 October 2001. Available at: http://www.number-10.gov.uk/news.asp?Newsld=2680&SectionId=32.

<sup>&</sup>lt;sup>2</sup> See Second Report from the Foreign Affairs Committee, Session 2001–2002, *British-US Relations*, HC 327.

OBE, <sup>4</sup> Professor Paul Wilkinson, <sup>5</sup> Dr Rosemary Hollis, <sup>6</sup> Mr Michael Keating and Mr Andrew Gilmour, <sup>7</sup> and Mr Philip Stephens. <sup>8</sup> We also met informally some of those closely involved in the events which this Report considers, including Mr Mohammed Karzai, Dr Abdullah Abdullah, <sup>9</sup> Professor Ismael Qasimyar, <sup>10</sup> Sir Jeremy Greenstock <sup>11</sup> and Mr John Bolton. <sup>12</sup> To all those we met, and to those who submitted their views in writing, we are grateful.

7. This is a continuing Inquiry. We make this interim Report now, because with the Taliban defeated, al Qaeda disrupted, and much talk of what happens next, we believe that this is the time to take stock. We do not intend this Report to be our last word on the subject. Neither do we pretend to have answers to all the questions we pose in it. But we trust that we can be of some assistance in identifying the issues and in pointing the way. We will continue to monitor developments on behalf of Parliament, and we will report further to the House.

## BEFORE 11 SEPTEMBER: WHY WERE THE ATTACKS NOT FORESEEN AND PREVENTED?

- 8. A number of terrorist attacks which took place in the 1980s and 1990s should, some have argued, have provided warning of the scale of the threat posed by international terrorism. In March 1983, a suicide bomber in a pickup truck loaded with explosives rammed into the US Embassy in Beirut, killing sixty three people, including seventeen Americans. A similar attack against the US Embassy in Beirut in September 1984 killed a further twenty four people. In October 1983, 241 US Marines were killed and more than one hundred others were wounded when a truck full of explosives was detonated outside a US Marine barracks at Beirut International Airport. The US and French Embassies in Kuwait were also attacked by terrorists in 1983. In June 1996, a bomb at the US barracks in Dhahran, Saudi Arabia, killed five US service personnel.
- 9. The use of civilian airliners to cause massive casualties was not a new concept. Pan Am flight 103 was blown up over Lockerbie in Scotland in December 1988. In December 1994 an Algerian Islamic group, the GIA, hijacked an Air France aircraft which they aimed to blow up over Paris in the first suicidal hijack attempt. This was averted by the French counter-terrorism commandos, GIGN. Another plot to kill 4000 airline passengers by crashing twelve US airliners over the Pacific was defeated in 1995. The lax airport security for domestic flights in the US had been highlighted in a book published earlier in 2001. 13
- 10. Al Qaeda had attacked US property and citizens during the 1990s. The World Trade Center had been the target of a bomb attack in 1993; this was intended to cause one tower to topple into the other. More than 220 people—12 Americans and the rest Kenyans or Tanzanians—had been killed, and thousands injured, when US embassies in Kenya and Tanzania

<sup>&</sup>lt;sup>4</sup> Formerly the Prime Minister's special envoy to the United Front (Northern Alliance).

<sup>&</sup>lt;sup>5</sup> Professor of International Relations and Director of the Study of Terrorism and Political Violence at the University of St Andrews, Scotland.

<sup>&</sup>lt;sup>6</sup> Head of the Middle East programme, the Royal Institute of International Affairs, Chatham House, London.

<sup>&</sup>lt;sup>7</sup> Representatives of the Office of the UN Special Co-ordinator in the Occupied Territories (UNSCO). Mr Keating is Director, aid and socio-economic affairs, and Mr Gilmour is Chief, Regional Affairs and Senior Political Adviser to the Special Co-ordinator.

<sup>8</sup> Columnist, Financial Times, London.

<sup>&</sup>lt;sup>9</sup> Respectively, leader and foreign minister of the interim administration in Afghanistan.

<sup>10</sup> Chair of Afghan Commission tasked with organising the Emergency Loya Jirga.

<sup>11</sup> United Kingdom Permanent Representative (Ambassador) to the United Nations.

<sup>&</sup>lt;sup>12</sup> Under Secretary for Arms Control and International Security, US Department of State, and Senior Adviser to the President and the Secretary of State on Arms Control, Non-proliferation and Disarmament.

<sup>&</sup>lt;sup>13</sup> Paul Wilkinson, Terrorism versus democracy: the liberal state response, London, Frank Cass 2001, pp 160–61.

were bombed in 1998 by al Qaeda terrorists using trucks laden with explosives.<sup>14</sup> Al Qaeda had again used a means of transport—this time a boat—to attack another American target, the USS Cole in October 2000, killing 17 US sailors.<sup>15</sup>

#### The United States' responsibility

- 11. Why, after similar terrorist methods had been used so extensively in the past, and after al Qaeda had killed American service personnel and launched attacks against US embassies and the USS Cole, was the threat from the organisation not addressed with sufficient urgency to prevent the 11 September attacks? Paul Wilkinson told us that "intelligence failure is the heart of the reason why the Americans did not understand the severity of the threat against them. I do not think they really had any idea of the extensiveness ... of this movement and the degree to which they [al Qaeda] were training for attacks against American targets, not only in third countries, but within the United States homeland."<sup>16</sup>
- 12. Professor Wilkinson told us that it was necessary to make up a "huge deficit in intelligence about the internal organisation ... of al Qaeda, and that battle can only be won by improving the quality of human intelligence... Because there has been such a dependence on technical intelligence, particularly by our American allies, we have a big gap to fill." There was a need to "train more people who are language qualified, who have the Muslim faith, who understand the Muslim world." <sup>17</sup>
- 13. We were told during our visit to Washington in March 2002 that, while US defence spending had increased significantly since the end of the Cold War, many of the non-military aspects of the foreign affairs budget had been cut. The implication was that intelligence shortcomings may have been in part the consequence of cuts to intelligence budgets. This would support Professor Wilkinson's contention that the success of al Qaeda's 11 September attacks was a consequence of intelligence failure—human intelligence in particular.
- 14. It seems likely, too, that the failure to act with sufficient urgency to counter the threat from al Qaeda was a consequence of political failures, not just of intelligence shortcomings. We were told on our visit to Washington in March 2002 that warnings about airline security had been issued for years by the agencies responsible for counter-terrorism, but that such warnings were not translated into action. According to Professor Wilkinson, the commercial airlines had lobbied against increased security, despite warnings from the intelligence agencies, and this may have accounted for the ease with which the terrorists boarded the aircraft on the morning of 11 September 2001.<sup>18</sup>
- 15. Two former members of President Clinton's National Security Council have argued before and since the attacks that the failure to deal with al Qaeda was not an intelligence shortcoming, but a political one. Steven Simon and Daniel Benjamin contend that, although the Administration had extensive knowledge of al Qaeda, "there was no [public] support for decisive measures in Afghanistan—including, possibly, the use of ground forces—to hunt down the terrorists." Subsequent US Tomahawk missile attacks on the al-Shifa chemical plant in Sudan and on terrorist camps in Afghanistan were dismissed as the worst foreign policy blunder of the Clinton presidency, and no decisive action was taken to combat the threat from al Qaeda.

<sup>&</sup>lt;sup>14</sup> See http://secretary.state.gov/www/statements/1999/990108.html.

<sup>15</sup> See http://secretary.state.gov/www/briefings/statements/2001/ps010116a.html.

<sup>16</sup> Q111.

<sup>&</sup>lt;sup>17</sup> Q101.

<sup>&</sup>lt;sup>18</sup> Paul Wilkinson, Terrorism versus democracy: the liberal state response, London, Frank Cass 2001, Chapter 8.

<sup>&</sup>lt;sup>19</sup> Steven Simon and Daniel Benjamin, "A failure of intelligence," New York Review of Books, 20 December 2001.

16. Professor Wilkinson gave a further explanation of the United States' failure to apprehend Osama bin Laden in the 1990s, although opportunities had arisen for the Clinton Administration to do so. The criminal justice system, he told us, has been "very often regarded as a rather cumbersome and ... in effective way of combatting terrorism and this may explain why President Clinton turned down the offer of extradition in 1996 from the Sudanese," which in "retrospect that seems an absolutely disastrous decision because he could have been brought to justice at that time, and there was already a lot of material available on the open sources to show what bin Laden was preaching and what he was about." This "tragic mistake ... was followed up by two further opportunities that were missed—one offered by Qatar, where they offered to extradite him when he was en route from Sudan to Afghanistan ... and I believe there was also a third occasion, though the details of that are a little murkier. Nevertheless, this was a decision made on a lack of intelligence about the severity of the threat and a failure to want to take on the difficult—and it certainly was a challenging—job of using the criminal justice system to deal with him."20

17. In mid-May 2002, it was suggested that President Bush had been warned just over a month before the attacks that a major terrorist outrage involving aircraft was in the offing. The Bush administration has denied that the intelligence reports in July and August 2001 were sufficiently detailed for him or his advisers to have predicted that civilian airliners would be used as guided missiles. The President's National Security Adviser, Condoleezza Rice, said on 16 May that, given the intelligence available, "I don't think anybody could have predicted that these people would take an airplane and slam it into the World Trade Center, take another one and slam it into the Pentagon; that they would try to use an airplane as a missile, a hijacked airplane as a missile. All of this reporting about hijacking was about traditional hijacking."21

18. When we visited Washington DC in November 2001, we received no indication that there had been any prior warning of the dangers of a suicidal airborne attack. However, in May 2002, the Washington Post<sup>22</sup> referred to a Library of Congress document, dated September 1999 and freely available over the internet since December 2001, but presumably available in Congress before that date, which stated that: "Al-Qaida's expected retaliation for the US cruise missile attack against al-Qaida's training facilities in Afghanistan on August 20, 1998, could take several forms of terrorist attack in the nation's capital. Al-Oaida could detonate a Chechen-type building-buster bomb at a federal building. Suicide bomber(s) belonging to al-Oaida's Martyrdom Battalion could crash-land an aircraft packed with high explosives (C-4 and semtex) into the Pentagon, the headquarters of the Central Intelligence Agency (CIA), or the White House. Ramzi Yousefhad planned to do this against the CIA headquarters."<sup>23</sup> It appears that warnings were indeed given but not heeded.

19. The announcement by President Bush on 6 June 2002 of a new Department of Homeland Security appears to confirm that the previous governmental structures were in some way deficient. Labelling his initiative "the most extensive reorganization of the federal government since the 1940s", the President acknowledged that "We are now learning that before September the 11th, the suspicions and insights of some of our front-line agents did not get enough attention."24 The new Department is expected to succeed where the old multi-agency structures failed by "ending duplication and overlap". These new arrangements may have implications for

<sup>&</sup>lt;sup>20</sup> O111.

<sup>&</sup>lt;sup>21</sup> Transcript of press briefing by National Security Advisor Dr Condoleezza Rice, The White House, 16 May 2002. See http://www.whitehouse.gov/news/releases/2002/05/20020516-13.html.

<sup>&</sup>lt;sup>22</sup> See http://www.washingtonpost.com/wp-dyn/articles/A39166-2002May18.html.

<sup>&</sup>lt;sup>23</sup> See http://www.loc.gov/rr/frd/Sociology-Psychology\_of\_Terrorism.htm.

<sup>&</sup>lt;sup>24</sup> See http://www.whitehouse.gov/news/releases/2002/06/20020606-8.html.

the sharing of information between United Kingdom and US intelligence agencies and their success will be important to the security of the international coalition countries.

#### The United Kingdom's responsibility

- 20. Should Britain have done more to understand the threat from al Qaeda, and to warn its ally of the extent of this threat? In Professor Wilkinson's view, "we were concentrating rather understandably on the Northern Ireland spillover of violence ... and I think we had a tradition of rather assuming that, if people were not attacking British targets, really we should not give such a high priority to intelligence work on networks that were simply support networks or were seen to be supporters and sympathisers in this country." We note with concern Professor Wilkinson's assertion that France had a rather similar record until it began to suffer from the wave of GIA terrorism, and that "We, I think, did not learn from the French lessons. If we had, we would have really stepped up our monitoring of the Islamist extremist groups, and we would have been ahead of the game."25
- 21. It has become even more clear since 11 September that the United Kingdom has been a major centre for global terrorist activity. 26 It lies beyond the scope of our mandate to scrutinise the effectiveness or otherwise of Government measures to deal with the activities of terrorists within Britain's borders. However, we note Professor Wilkinson's concern that concentration on direct terrorist threats to the United Kingdom may have led the Government to pay insufficient attention to the kind of international terrorism which, as the events of 11 September demonstrate, threaten Britain's national interests and security in equally significant ways. We hope that the House of Commons Home Affairs Committee and Defence Committee and the Intelligence and Security Committee will address these questions, and report as fully as possible within the limitations of a public document.
- 22. European countries are now beginning to share intelligence more effectively and to establish international judicial procedures to cope with terrorists. The EU is also strengthening its cooperation with the United States in counter-terrorism activities. We describe actions that have been taken since 11 September below. However, these improvements in co-operation between allies have been made "rather late in the day... in the light of the severity of the problem;" similar action also needs to be extended to countries which have al Qaeda cells within their borders.<sup>27</sup>
- 23. Britain and the US already have a particularly close intelligence relationship. Each shares a great deal of what it knows with the other. It would appear that before 11 September, both the US and the United Kingdom failed to gather or share good intelligence, or they failed to interpret it correctly, or they failed to act on it. We are not in a position to judge which was the case, or what was the cause, although we note the judgments of others such as Professor Wilkinson.
- 24. We asked the Foreign and Commonwealth Office (FCO) to explain what it has done to rectify the intelligence failures which we deduce must have occurred. The FCO told us that "The Government's response to the events of 11 September—which also ranges considerably wider than the area of responsibility of the FCO—has included efforts to increase the information available to us on the terrorist threat, from wherever it might come. Increased resources have been devoted to this work. The national machinery available for responding to counter-terrorist

<sup>&</sup>lt;sup>26</sup> See for example 'Britain's al-Qaeda connections,' BBC news, 29 January 2002:http://www.news.bbc.co.uk/hi/english/uk/newsid\_1775000/1775683.stm.

<sup>&</sup>lt;sup>27</sup> O100 [Professor Wilkinson].

information has been expanded."<sup>28</sup> The FCO memorandum does not state whether there were failures of intelligence before 11 September. We trust that if the Government's own inquiries or those of the Intelligence and Security Committee have identified any such failures, steps will have been taken to prevent their repetition.

- 25. The events of 11 September demonstrated clearly that a narrow definition of "national interest" is no longer sufficient. The international terrorist threat from organizations such as al Qaeda may be directed most immediately against the United States, but such attacks affect British interests and security, and may in future be directed against the United Kingdom. Furthermore, international terrorism can only be tackled through thoroughly international cooperation, and not just among Britain's traditional allies. We are convinced that the Government's efforts to achieve international counter-terrorism co-operation through existing international organizations, and in particular through the United Nations, are therefore an appropriate way to develop effective international co-operation against terrorism. Sufficient resources must, however, be provided to ensure that such measures succeed.
- 26. We recommend that in its response to this Report the Government state whether or not the British intelligence agencies on which the security of the United Kingdom depends have the human, financial and other resources they require to offer the best possible protection against terrorist attacks on the United Kingdom or on British posts and facilities overseas.

#### International treaties and other measures to counter terrorism before 11 September

- 27. There are twelve different multilateral conventions and protocols related to states' responsibilities for combatting terrorism.<sup>29</sup> None of these provides a commonly agreed definition of terrorism, and many states are not yet party to these legal instruments, or are not yet implementing them. A definition of terrorism has not been agreed by the UN General Assembly since 11 September, although the government of Australia has proposed such a definition.
- 28. The lack of a commonly agreed framework for tackling terrorism was undoubtedly partly responsible for the limited level of international co-operation before 11 September. Progress had, however, been made to define terrorism in international discourse, although it had not been enshrined in a treaty. Professor Wilkinson considered that it would "be very difficult to get agreement in the United Nations among all the members of the Security Council and the General Assembly" over the definition of terrorism, but there had been "an improvement in the understanding internationally of what is meant by terrorism among diplomats, among international jurists, among governments... [and the] core elements are more generally accepted than ever in my experience in working in this field. There has been an inching forward towards greater convergence," a process which was accelerated by the attacks on 11 September. We describe international co-operation in the war against terrorism in the sections below, which deal with the period since 11 September.<sup>30</sup>

<sup>30</sup> Q98.

<sup>28</sup> See Ev 106

<sup>&</sup>lt;sup>29</sup> See Annex to this Report and http://www.un.org/news/dh/latest/intreaterror.htm.

## PHASE I: FROM THE TERRORIST ATTACKS TO THE OVERTHROW OF THE TALIBAN, 11 SEPTEMBER - 14 NOVEMBER 2001

29. At the end of "Phase I," the Prime Minister described the progress made. In Afghanistan, the terrorists' base, Kabul had fallen without serious resistance, the Taliban were in "total collapse," and "to see women and children smiling after years under one of the most brutal and oppressive regimes in the world is finally to understand the true meaning of the word 'liberation." The critics of the military campaign had been confounded: as the Foreign Secretary told us on 20 November, "Ten days ago there were still people writing that the Taliban were an unbreakable force," yet the regime which had played such an important role in supporting al Qaeda had disintegrated almost completely. 32

30. The international coalition against terrorism had remained remarkably strong throughout the military campaign. Co-operation to fight terrorism had been stepped up considerably in the European Union. UN member states' counter-terrorism actions were being monitored by the UN Counter-Terrorism Committee (CTC), which is chaired by Britain's Permanent Representative to the UN, Sir Jeremy Greenstock. The US approach to the global organization appeared to have warmed somewhat since 11 September. Crucially, too, the British Government had emerged as America's closest partner in the war against terrorism. The Prime Minister had received a standing ovation in the US Congress. The *New York Times* described him as America's "most passionate and steadfast ally in the fight against terrorism." The British Government was at the centre of the campaign, and it appeared to be making progress.

#### The month after the attacks

#### Symbols of support

31. Britain provided the United States with much needed moral support in the immediate aftermath of the terrorist attacks, and this helped to cement the very strong relationship which has persisted between the British and US governments since 11 September. In our Report to the House on British-US Relations in December 2001, we wrote:

"Time and again in the United States we heard that the United Kingdom's prompt actions immediately after the events of 11 September were regarded by Americans not only as significant, symbolic acts of solidarity, but also as very concrete expressions of the special relationship. From the Prime Minister's private and public pronouncements, through the playing of the US National Anthem by the band of the Coldstream Guards at Buckingham Palace followed by the almost universally-observed 3 minute period of silence, to the cancellation of sporting fixtures and the thousands of expressions of solidarity by the British people at large, the United Kingdom's reaction to the acts of terror was seen as being both genuine and apposite. The very spontaneity of the reaction illustrated perfectly the instinctive nature of the relationship."

32. The importance of these symbols of support should not be underestimated. However, it was the actions taken by the Government which ensured Britain's immediate and deep involvement in shaping coalition policy.

33 New York Times, 4 October 2001.

<sup>&</sup>lt;sup>31</sup> Official Report, 14 November 2001, col. 861.

<sup>&</sup>lt;sup>32</sup> Q3 [Foreign Secretary].

<sup>&</sup>lt;sup>34</sup> See Second Report from the Foreign Affairs Committee, Session 2001–2002, *British-US Relations*, HC 327, para 16.

#### The Government's role in mobilising the international coalition

Articulation of coalition policy

- 33. At the beginning of the campaign, the Government set out a sound series of objectives which it made public through speeches and through two published documents. These clearly articulated objectives appear to have shaped to a significant degree the early stages of the war against terrorism. They also contributed to ensuring that the widespread support for the US in the aftermath of the attacks was translated quickly into global action against the terrorist threat.
- 34. In his speech to the House on 14 September, the Prime Minister emphasized three objectives which should be pursued to address the threat of terrorism. First, he argued, "we must bring to justice those responsible." Secondly, he called for the establishment of an international coalition: "this is a moment when every difference between nations" should be "put to one side in one common endeavour." Thirdly, he argued that "we need to re-think dramatically the scale and nature of the action the world takes to combat terrorism." 35
- 35. The same objectives were set out in more detail in the Government's "Campaign Objectives" document, which was published on 4 October. The "overall objective" was to "eliminate terrorism as a force in international affairs." The document described immediate objectives relating to Osama bin Laden, his network, and the Taliban regime. Wider objectives were also described: the coalition would "do everything possible to eliminate the threat posed by international terrorism" and "deter states from supporting, harbouring or acting complicitly with international terrorist groups." The coalition would also aim to reintegrate Afghanistan as a "responsible member of the international community." The means for achieving these objectives, both political and military, were outlined in the document.
- 36. Another document set out "Responsibility for the terrorist atrocities." The introduction to the document states that it "does not purport to provide a prosecutable case against Usama bin Laden in a court of law... Intelligence often cannot be used evidentially... But on the basis of all the information available HMG is confident of its conclusions as expressed in this document."<sup>37</sup>
- 37. Both these documents were also posted on the FCO website in Arabic, and the "Responsibility" document was also posted in Urdu.
- 38. The Foreign Secretary told us that the fact that these were United Kingdom rather than US government documents "does not suggest there is a disagreement, this must not be implied because this is to misunderstand the nature of the relationship... The US, I am certain... were very happy that we should have published evidence in that way." Indeed, by division of labour, it probably suited the US for the British Government to publish the evidence. <sup>39</sup>
- 39. The Foreign Secretary went on to explain that the Government had faced "difficult judgements about publishing that evidence because parts of it were drawn from intelligence though a great deal of it was historical."<sup>40</sup> In response to a question about the Government's

<sup>&</sup>lt;sup>35</sup> Official Report, 14 September 2001, cols. 605–6.

<sup>&</sup>lt;sup>36</sup> International Coalition Against Terrorism, Campaign Objectives:-

http://www.fco.gov.uk/text\_only/news/keythemehome.asp.

<sup>37</sup> See http://www.fco.gov.uk/news/dynpage.asp?Page=10846&Theme=34&Template=999.

<sup>38 018</sup> 

<sup>&</sup>lt;sup>39</sup> This division of labour has been used before, for example in the publication in 1999 of a document on weapons of mass destruction, *Defending against the threat of biological and chemical weapons*, by the Ministry of Defence.

<sup>40</sup> O18.

intention to publish evidence in advance of possible future military action against other states, the Foreign Secretary replied that he could not give "any guarantees one way or the other"—the "good argument in terms of public support" had to be balanced against the need "to protect intelligence sources, particularly human intelligence sources."41

40. We conclude that the Government was right to publish the coalition "Campaign Objectives" and the document outlining "Responsibility for the terrorist atrocities." These publications went some way towards reassuring Parliament, the British public and Britain's coalition partners of why military action against Afghanistan was necessary. Our recommendation on the need to apply this approach to potential future actions is made in paragraph 233 below.

#### Diplomatic activity

- 41. The Government's energetic diplomacy in the early stages of the campaign helped to translate the outpouring of sympathy for the United States into a broad international coalition. British diplomatic initiatives also helped the Government to develop a "positive agenda of engagement with Arab countries and the Islamic world;" and helped Afghanistan, through the United Nations, to establish a "broadly based government representative of all groups in the country."42
- 42. Between 11 September and the commencement of military strikes, the Prime Minister met several European leaders and visited President Bush in the United States. He attended an emergency meeting of the Council of the European Union in Brussels. He visited Pakistan and India in early October. The Foreign Secretary held talks with Iranian, Egyptian and Israeli leaders and the Arab League.
- 43. Soon after the commencement of military operations, on 11 October, the Prime Minister visited Egypt. Between 30 October and 1 November, he also visited Syria, Saudi Arabia, Jordan, Israel and the Palestinian Authority. The FCO, in its 19 November memorandum, states that these visits were in part an effort to "reinvigorate the search for peace" in the Middle East, though they also contributed to the sense that Britain was engaging with its allies in the Islamic world during the campaign against Afghanistan.<sup>43</sup>
- 44. Between mid-October and mid-November, the Prime Minister also appointed Paul Bergne, a diplomat with experience in Central Asia, to be his "personal representative on Afghan affairs."44 Robert Cooper, another diplomat, was appointed to represent Britain in negotiations towards the future of Afghanistan in the UN and elsewhere. 45
- 45. Philip Stephens told us of other diplomatic initiatives which have been pushed forward by the Government since 11 September. He told us that both "the Prime Minister and the foreign secretary took an active part in encouraging Russia's Vladimir Putin to see the aftermath of September as an opportunity to join the mainstream of western policymaking. Elsewhere, the US administration was initially reluctant to involve the Group of Eight in the international counter-

<sup>41</sup> Q18.

<sup>42</sup> International Coalition Against Terrorism, Campaign Objectives:http://www.fco.gov.uk/text\_only/news/keythemehome.asp.

<sup>43</sup> See Ev 3, para 16.

<sup>&</sup>lt;sup>44</sup> See Ev 1, para 5. See also the Prime Minister's Official Spokesman, Lobby Briefing, 25 October 2001: http://www.pm.gov.uk/output/page3696.asp.

<sup>45</sup> See Ev 1, para 5.

terrorism effort but at the UK's instigation it has broadened the remit of its Financial Action Task Force to include action to halt the flow of terrorist funding."46

46. We conclude that the Prime Minister and the Foreign Secretary were right to invest substantial time and effort overseas in helping the United States to mobilise the international coalition against terrorism.

#### The role of international organisations

NATO

47. On the initiative of the Secretary General of NATO, Lord Robertson, the North Atlantic Council<sup>47</sup> reacted to the attacks by declaring on 12 September that

"If it is determined that this attack was directed from abroad against the United States, it shall be regarded as an action covered by Article V of the Washington Treaty, which states that an armed attack against one or more of the Allies in Europe or North America shall be considered an attack against them all."

This was the first time in NATO's history that its members had invoked Article V.

48. The FCO told us that Britain had "played an active role in promoting ... the NATO decision" to invoke Article V. The FCO also "pushed forward the deployment of joint NATO assets such as the Standing Force in the Mediterranean and the NATO AWACS [Allied Airborne Early Warning and Control aircraft]." NATO AWACS aircraft were sent to patrol US airspace on 9 October in an operation code named "Eagle Assist." <sup>51</sup>

## 49. We conclude that NATO was entirely right to invoke Article V, and commend the Secretary General on his initiative in the aftermath of the 11 September attacks.

50. In the immediate aftermath of the attacks, Russian President Vladimir Putin sought stronger links with NATO. The Prime Minister responded to this by asking the FCO to produce a paper setting out options for a new relationship with Russia, "encouraging," as Philip Stephens told us, "Russia's Vladimir Putin to see the aftermath of September as an opportunity to join the mainstream of western policymaking." This paper proposed an overhaul of the relationship between NATO and Russia, including the creation of a new body, in which twenty governments (19 NATO members plus Russia) would discuss some security issues as equals. The new body would replace the Permanent Joint Council, and would reflect the "changing political atmosphere since 11 September attacks in America." The paper was sent to other NATO members on 17 November, and the NATO Secretary General went to Russia on 21 November 2001 to discuss the proposals with the Russian President.

51. On 14 May 2002, agreement was reached on the establishment of a NATO-Russia Council (NRC) to replace the existing NATO-Russia Permanent Joint Council. This will allow

<sup>&</sup>lt;sup>46</sup> See Ev 61, para 7.

<sup>&</sup>lt;sup>47</sup> The North Atlantic Council is the governing body of NATO.

<sup>&</sup>lt;sup>48</sup> NATO press release (2001) 124.

<sup>&</sup>lt;sup>49</sup> See Ev 1, para 3.

<sup>&</sup>lt;sup>50</sup> See Ev 1, para 4.

<sup>51</sup> NATO 'Operation Eagle Assist' terminates on 16 May 2002.

<sup>&</sup>lt;sup>32</sup> See Ev 61, para 7.

<sup>&</sup>lt;sup>53</sup> 'Blair pushes Russia-NATO ties', BBC news online, 17 November 2001.

NATO members and Russia to work "as equal partners in areas of common interest while preserving NATO's prerogative to act independently." The agreement was adopted and signed at the NATO-Russia summit in Rome on 28 May 2002.

- 52. NATO did not play a significant role in the Afghanistan campaign, although established methods of joint operations and inter-operability of forces must have considerably facilitated the work of ISAF. There were press reports only two days after the attacks suggesting that NATO was "drawing up an emergency plan for a massive attack on Afghanistan if proof emerges that Osama bin Laden, the wanted Saudi-born terrorist sheltered by Afghanistan, was responsible for the attacks. Under contingency plans being prepared, an assault would involve tens of thousands of ground troops, equivalent to the scale of the force deployed in Kosovo." Though military action did not ultimately involve NATO command structures, Britain was "active in encouraging a positive US response to the offer by allies, especially our European partners," of military support. Such offers came from Britain's EU partners, India, Canada, Australia, New Zealand and Turkey. Russia permitted US overflights of its territory, shared intelligence, and offered combat search and rescue support; it also assented to American proposals to use former Soviet military facilities in some of the Central Asian republics.
- 53. Philip Stephens told us that "Washington was initially reluctant to accept military contributions, albeit token, from other European nations and some in the Pentagon are said to have opposed even a UK contribution." Maintaining the multilateral nature of the coalition is extremely important, and the military aspects of the war against terrorism are no exception to this. We commend the Government's efforts to include other countries' military contributions in the war against terrorism, and recommend that it continue to press for similar coalitions where appropriate in any future military operations.
- 54. NATO has played a limited military role in the war against terrorism. This may suggest a shift in the US approach to the Alliance. There are voices in the Administration who no longer perceive NATO as being as central to US security as it was only two or three years ago, but perhaps as more of a political organisation. We note, however, that the US Administration is considering the possibility of NATO setting up a number of highly mobile "mini task-forces" for deployment to troublespots. <sup>58</sup>
- 55. It is clear that the international coalition against terrorism has a great attraction to the US as an international vehicle for prosecuting US defence and foreign policy. The coalition is made up exclusively of US bilateral relationships. By working through the coalition, the US is not dependent on any international decision-making process. The command structure of the coalition is entirely US-led. It is unclear where this leaves NATO. We recommend that the FCO clarify how it sees the role of NATO in the conduct of US-led military operations against terrorists or the states that sponsor them. We further recommend that the FCO clarify NATO's role in providing and co-ordinating intelligence in the war against terrorism.

The Sunday Telegraph 2 June 2002.

<sup>&</sup>lt;sup>54</sup> NATO press release, 14 May 2002: http://www.nato.int/docu/update/2002/0513/e0514a.htm.

<sup>&</sup>lt;sup>55</sup> US rallies west for attack on Afghanistan, *The Guardian*, 13 September 2001.

<sup>&</sup>lt;sup>56</sup> See Ev 1, para 4.

<sup>&</sup>lt;sup>57</sup> See Ev 61, para 8.

#### The European Union

56. The European Union took action after 11 September with what the International Crisis Group described as "a pace of response almost unprecedented within the EU." To ensure coordinated responses to the attacks, an emergency meeting of foreign ministers was convened in Brussels on 12 September. EU heads of state met on 21 September, and agreed to the introduction of a counter-terrorism Plan of Action. This included a proposal for a European arrest warrant and the adoption of an EU-wide definition of terrorism; a Framework Agreement on freezing assets and evidence; increased co-operation between services responsible for fighting terrorism; the early ratification by all member states of the UN Convention for the Suppression of the Financing of Terrorism; implementation by member states of UN Security Council resolutions on countering terrorism; the review of relations with third countries in the light of their performance in combating terrorism; and the approval by the Commission of improvements to air transport security. 60 Overall, the Plan defined over sixty discrete objectives to fight terrorism, covering foreign policy, home affairs, judicial co-operation, financial and economic policy.

57. We discussed the impact of the terrorist attacks on the EU agenda when we visited Brussels in October 2001. We were told that many of the issues that were addressed with increased urgency after the attacks, such as the common arrest warrant, had been on the EU's Justice and Home Affairs agenda for some time but had become bogged down in minor disagreements among member states. The crisis had given EU-wide legislation in these areas a huge a boost: EU member states pledged to address policies on counter-terrorism, asylum and immigration, and mutual recognition of judicial procedures before the Laeken summit at the end of 2001.

58. The crisis was seen by some as a test of the EU's Common Foreign and Security Policy. In the first stages of the campaign, there were few if any significant differences between EU member states on how to tackle the terrorist crisis, and the consensus was that they had acted cohesively and rapidly in response to the threat. We heard during our visit to Washington in early November 2001 that the EU response to the crisis had impressed those in the Administration who have a sceptical view of Europe, many of whom, until that point, had not realised that European co-operation existed in so many areas. By November, however, the Foreign Secretary reported to us that some EU countries were not "on target" in implementing antiterrorism measures: "There are some abstruse arguments taking place among Member States about particular aspects of the measures."61

59. The immediate EU response to the 11 September attacks was impressive, but progress became bogged down in the following months. Nonetheless, the habits of intergovernmental cooperation created through the EU proved valuable in this crisis. Some of the subsequent problems in reaching agreement over the action plan have been resolved under the Spanish Presidency of the EU. On 14 February 2002, the Spanish Presidency announced that political agreement had been reached on the establishment of the European arrest warrant and that all the difficulties involved in the establishment of Eurojust, an EU-wide judicial co-operation unit, had been resolved. 62 Efforts within the EU are also being made to strengthen judicial co-operation with the United States to fight terrorism.

<sup>&</sup>lt;sup>59</sup> 'EU crisis response capabilities: an update.' International Crisis Group report, Brussels, 29 April 2002.

<sup>&</sup>lt;sup>60</sup> See Ev 14, para 13.

<sup>&</sup>lt;sup>62</sup> Eurojust was finally approved at the Justice and Home Affairs Council on 28 February 2002. http://www.ue2002.es/principal.asp?idioma=ingles.

60. We recommend that in its response to this Report the Foreign and Commonwealth Office provide a full statement on EU-wide co-operation and progress in countering terrorism.

#### The United Nations

- 61. In its memorandum to the Committee, the FCO described the United Nations as the "primary forum for building and consolidating global support" for the campaign against terrorism.<sup>63</sup> Britain has played an important role in establishing the UN as central to coalition-building efforts since the terrorist attacks occurred, and we believe that this has contributed substantially to the strength of the international coalition against terrorism.
- 62. On 11 September, Britain and France together drafted a Security Council resolution condemning "in the strongest terms the horrifying terrorist attacks." The resolution affirmed the "inherent right of individual and collective self-defence" in accordance with Article 51 of the Charter of the United Nations, and stated that the Security Council regarded the terrorist acts as "a threat to international peace and security." It called on all states to "work together urgently to bring to justice the perpetrators, organisers and sponsors of these terrorist attacks," and expressed "readiness to take all necessary steps to respond to the terrorist attacks… and to combat all forms of terrorism." This Security Council Resolution, 1368 (2001), was passed unanimously on 12 September 2001.<sup>64</sup>
- 63. By characterising the attacks as "a threat to international peace and security" and by implying that the Security Council was acting under Article 51 of the UN Charter, Resolution 1368 also gave immediate legal authorisation for military action by the United States and its allies, provided that such action was demonstrably one of self-defence against "armed attack," and provided that the action was immediately reported to the Security Council. 65 66
- 64. The United States subsequently drafted a second Resolution, number 1373, which was passed on 28 September 2001.<sup>67</sup> UN Security Council Resolution (UNSCR) 1373 declared explicitly that the Security Council was acting under Chapter VII of the UN Charter, <sup>68</sup> implying that the steps proposed in the Resolution imposed obligations on Member States which were binding in international law. UNSCR 1373 specified that states must prevent all financing of terrorist organisations, refrain from assisting such organisations, and find ways of enhancing counter-terrorist activity, both at a national level and through international co-operation. UNSCR 1373 also established the UN Counter-Terrorism Committee (CTC), "a Committee of the Security Council, consisting of all the members of the Council, to monitor implementation of this resolution."
- 65. We were told during our visits to New York that UNSCR 1373 was exceptional because, although it was drawn up and passed by the fifteen-member Security Council, it obliges all

64 See http://www.un.org/Docs/scres/2001/res1368e.pdf.

67 See http://www.un.org/Docs/scres/2001/res1373e.pdf.

<sup>69</sup> UNSCR 1373 (2002), para 6.

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<sup>&</sup>lt;sup>63</sup> See Ev 2, para 7.

<sup>&</sup>lt;sup>65</sup> Article 51 states that "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures to maintain international peace and security. Measures undertaken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."

<sup>&</sup>lt;sup>66</sup> For a discussion of the legal bases and precedents, see Christopher Greenwood, "International Law and the 'war against terrorism'," *International Affairs* 78, 2(2002) 301–317.

<sup>68</sup> Chapter VII: 'Action with respect to threats to the peace, breaches of the peace, and acts of aggression'.

member states to take action. It is, therefore, equivalent to a binding treaty which no state has had the opportunity to negotiate. For this reason, it is extremely important for the success of the UN's activities against terrorism to ensure that member states regard the CTC as legitimate, important, and serving their own interests.

66. Sir Jeremy Greenstock, the United Kingdom's Permanent Representative to the United Nations, was elected by the Security Council as Chairman of the Counter-Terrorism Committee. As the Foreign Secretary told us, this was a "very great personal compliment to him," because it is "very unusual... for any Permanent Member of the Security Council to have their Permanent Representative made Chairman of a Security Council Committee." "100 National Committee Permanent Representative made Chairman of a Security Council Committee Permanent National Committee Permanent Representative made Chairman of a Security Council Committee Permanent National Committ

67. As Chairman, Sir Jeremy Greenstock moved quickly towards setting out a work plan for the Counter-Terrorism Committee. On 8 October, he outlined the steps that the CTC would take in encouraging, monitoring and advising States on their implementation of UNSCR 1373. The CTC would "assess States" implementation in so far as it would identify problem areas and examine whether there was scope for assistance to Member States to help them improve their implementation." Sir Jeremy Greenstock was clear that the "Security Council, not the CTC, would tackle any political questions on the implementation of resolution 1373." The question of defining terrorism would also be avoided by the CTC: Sir Jeremy Greenstock explained in a press briefing on 19 October that "It is not the primary purpose of the Counter-Terrorism Committee to get into the politics of what is happening in the short-term. It is not the intention of the Counter-Terrorism Committee to try and solve problems that are for the General Assembly. Or to try and define terrorism, or otherwise solve some of the sensitive political issues that are directly, or indirectly attached to the fight against terrorism." <sup>72</sup>

68. Each member state was required to provide a report of measures towards implementation of UNSCR 1373, which would be delivered to the CTC by 27 December 2001. To assist member states in this task, in October the CTC produced written guidance for states on the information the CTC expected to be included in the reports. Member states were asked to identify counter-terrorism "contact points" in missions to the UN and in capitals. The CTC discussed the need for expert advice to assist it in analysing reports from states, and to guide the Committee on technical assistance for states.

69. We congratulate Sir Jeremy Greenstock on his appointment as Chairman of the Counter-Terrorism Committee. We conclude that the Government was right to push for a prominent UN role in the war against terrorism, and commend its work towards this end in the immediate aftermath of the 11 September attacks. We assess the work of the CTC in paragraphs 118 to 130 below.

#### Military action in Afghanistan

70. It was widely anticipated that after 11 September the US military reaction would be swift and extensive. After the al Qaeda terrorist strikes against US embassies in Nairobi and Dar es Salaam in August 1998, the Clinton Administration had launched immediate missile attacks against the al-Shifa chemical factory in Sudan, and against suspected terrorist targets in Afghanistan.

<sup>71</sup> Briefing by the Chairman of the Counter-Terrorism Committee of interested member states, 8 October 2001: http://www.un.org/Docs/sc/committees/1373/.

<sup>&</sup>lt;sup>70</sup> Q25. See also Second Report from the Foreign Affairs Committee, Session 2001–2002, *British-US Relations*, HC 327, para 34.

Press conference, New York, 19 October 2001 (UN Department of Public Information summary): http://www.un.org/Docs/sc/committees/1373/.

- 71. Osama bin Laden was immediately considered to be the most likely perpetrator of the 11 September attacks. Military strikes on bin Laden's terrorist network's bases in Afghanistan were expected. International humanitarian aid workers began to leave the country, and the UN High Commission for Refugees stated that, in anticipation of massive refugee flows from Afghanistan, it was putting in place the largest emergency contingency operation in its history in Pakistan. There was widespread concern about the impact of such a military campaign on the people of Afghanistan and the neighbouring countries: on 24 September, Ruud Lubbers, UN High Commissioner for Refugees, told Reuters television: "I say to Washington: take your time and think hard." He warned against "disproportionate military activity that is so massive it creates humanitarian misery."
- 72. On 7 October 2001, British and American armed forces began a series of air and cruise missile attacks in Afghanistan. The attacks were launched against the terrorist camps of Osama bin Laden and the military installations of the Taliban regime. By this stage, international legal grounds for such an attack had been established through Security Council Resolutions 1368 and 1373.
- 73. On 8 October, Parliament was recalled for the third time since 11 September. The Prime Minister pointed out in his speech to the House that the Government and the United States had decided to delay any military action for almost four weeks after the attacks on the World Trade Center and the Pentagon. The Prime Minister paid "tribute to President Bush's statesmanship in having the patience to wait," and explained that action had been delayed for three reasons: "First, we had to establish who was responsible. Once it was clear that the al Qaeda network planned and perpetrated the attacks we then wanted to give the Taliban regime time to decide their own position: would they shield bin Laden or would they yield him up? ... thirdly, we wanted time to make sure that the targets for any action, minimised the possibility of civilian casualties."
- 74. Without trying the diplomatic route before military action, and without the clear and public articulation of coalition objectives and of responsibility for the terrorist attacks, global support for the operation would have been much harder to establish. We were reassured to hear from Mr Paul Bergne, the Prime Minister's envoy to the United Front (also known as the Northern Alliance) during October and November 2001, that, in his view, during this four week period all diplomatic alternatives to military action had been exhausted. The British and American governments, together with the government of Pakistan, expended "considerable thought" and diplomatic effort between 11 September and the beginning of October in examining "what alternative forms of pressure [to military force] there might be" to persuade the Taliban to extradite Osama bin Laden. The Pakistani government sent two delegations to Kandahar to try to persuade the Taliban to give him up, but without success.
- 75. We commend the efforts of British diplomats to persuade the Taliban to surrender Osama bin Laden after 11 September. We conclude that this was the right course of action, which helped to hold together the international coalition during the subsequent military campaign in Afghanistan.
- 76. Military action was taken with a remarkably high level of international endorsement. Islamic countries at the Asia-Pacific Economic Co-operation forum in October were generally supportive of the US-led campaign. The Chinese Foreign Minister Tang Jiaxhuan referred to the

<sup>75</sup> Q74.

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<sup>73</sup> See http://news.bbc.co.uk/hi/english/world/south\_asia/newsid\_1560000/1560689.stm.

<sup>&</sup>lt;sup>74</sup> Official Report, 8 October 2001, col. 811.

anti-terrorism campaign as a "fight between justice and evil," and Russia issued strong statements of support, encouraged Central Asian states to offer the US use of military bases, and reportedly co-operated with the US on intelligence to aid the campaign in Afghanistan. 77

- 77. The campaign in Afghanistan began with cruise missile attacks on al Qaeda and Taliban air defences, command and control facilities, air bases and training camps. Military vehicles were also attacked, and US aircraft destroyed defences around major cities in Afghanistan such as Kabul, Jalalabad, Kandahar and Mazar-e-Sharif. Taliban and al Qaeda troop concentrations were targeted later in the campaign. The US-led military campaign was made in alliance with the Northern Alliance, which had been fighting the Taliban in Afghanistan throughout the late 1990s. Small numbers of special forces were used to liaise with the Northern Alliance and to help with missile guidance.
- 78. From the beginning, concerns were raised about the campaign in Afghanistan. Military analysts pointed to the dangers inherent in such a campaign. Afghanistan, it was noted, had in the past been a graveyard for invading armies, not least the British in the nineteenth century and the Soviet Russian army in the twentieth. The US and its allies would surely become bogged down in a fruitless campaign there for years. The Chief of the Defence Staff, Admiral Sir Michael Boyce, warned that "we must expect [military action] to go through the winter and into next summer at the very least." Professor Sir Michael Howard warned in late October that trying to defeat al Qaeda through the continued bombardment of Afghanistan was like "trying to eradicate cancer cells with a blow torch."
- 79. There was also widespread concern during October about the consequences of the campaign for the civilian population of Afghanistan. The UN, Human Rights Watch and Amnesty International called on the US-led coalition to strengthen measures to ensure that civilians were not killed as a result of military action, and expressed particular concern about the use of cluster bombs. In late October, some humanitarian organisations also called for an break in the bombing campaign to ensure assistance was delivered to vulnerable communities in Afghanistan. In a specific part of the consequences of the campaign for the civilian population of Afghanistan. In the UN, Human Rights Watch and Amnesty International called on the US-led coalition to strengthen measures to ensure that civilians were not killed as a result of military action, and expressed particular concern about the use of cluster bombs. In late October, some humanitarian organisations also called for an break in the
- 80. By 9 November, Alliance forces had captured the northern Afghan city of Mazar-e-Sharif. Six provinces across Northern Afghanistan fell quickly after this, as Taliban troops retreated to the east and west of the country. During the night of 12-13 November, Taliban forces evacuated the capital, Kabul.
- 81. We conclude that the British and American governments were vindicated in their judgments that the Taliban could be removed speedily, and with loss of life that appears to have been far lower than was predicted early in the military campaign.

#### Communication failure at Bagram

82. The Foreign Secretary told us that the military alliance with local forces in Afghanistan had in general been very successful, and "one of the many remarkable things which has happened since the fall of Mazar-e-Sharif on 9th November and of Kabul a couple of days later has been

<sup>&</sup>lt;sup>76</sup> See http://www.cnn.com/2001/WORLD/asiapcf/east/10/18/china.apec.terror/.

<sup>77</sup> See http://www.ccc.nps.navy.mil/rsepResources/si/russia.asp.

<sup>&</sup>lt;sup>78</sup> See http://news.bbc.co.uk/hi/english/uk/newsid\_1593000/1593338.stm

<sup>&</sup>lt;sup>79</sup> 'Al Qaida is winning war, allies warned,' *Guardian*, 31 October 2001.

<sup>&</sup>lt;sup>80</sup> 'Cluster bombs stoke humanitarian crisis fears as civilian toll mounts', Agence France Presse, Islamabad, 25 October 2001.

<sup>&</sup>lt;sup>81</sup> See First Report from the International Development Committee, Session 2001–2002, *The Humanitarian Crisis in Afghanistan and the Surrounding Region*, HC 300–i, especially para 79.

the degree to which there has been relative peace within most areas of Afghanistan without there being a need for external forces. Kabul has been quiet. It has a police force, a rudimentary police force of just 1,200 people which for a population of its size is very small but it has been relatively quiet. I think having been through this terrible blood letting over the last decade the sense I get from those I have spoken to is that people understand they have got to show restraint. That is one of the things which I commend and believe the Northern Alliance has."82

- 83. However, British liaison with its Afghan allies appears to have been difficult on some occasions. Paul Bergne told us that, during his assignment in Afghanistan, he was able "to play a significant role in de-fusing the fury of the Northern Alliance leaders when the United Kingdom landed troops at Bagram [air base] without seeking their agreement." Mr Bergne told us that he did not know why the British Government had not sought agreement before landing the Special Boat Service troops at Bagram; he had never received a satisfactory explanation from the FCO. Mr Bergne himself had only been informed of the troops' arrival in Afghanistan half an hour before the first aeroplane flew in, by the Northern Alliance 'foreign minister' (now Afghan foreign minister) Dr Abdullah Abdullah, who was "extremely angry." The Northern Alliance were threatening to open fire on the British troops. Bergne was able to persuade Dr Abdullah to send instructions to prevent such an attack, though the British Commanding Officer at Bagram told Bergne later that the Afghans at Bagram had been "sorely tempted" to open fire on this occasion.
- 84. We recommend that the Government investigate the circumstances which led to the dangerous misunderstanding with Britain's allies at Bagram. We trust that measures will be taken to ensure that British personnel will not be endangered unnecessarily through such misunderstandings in future operations.
- 85. We also recommend that the Government investigate the extent to which the confusion and blurred lines of communication arose from the fact that Mr Bergne was appointed by the Prime Minister rather than by the FCO. Lessons need to be learned about relations between the Foreign Office and the Prime Minister's personal appointees in such circumstances.

#### Collapse of the Taliban

- 86. On 14 November, as Northern Alliance forces entered Kabul, the Security Council adopted a British/French drafted resolution, 1378, which affirmed that UN should play a "central role in supporting the efforts of the Afghan people to establish urgently... a new and transitional administration leading to the formation of a new government."
- 87. The evidence suggests that the defeat of the Taliban did achieve its major objective, which was to destroy al Qaeda's support base in Afghanistan and significantly to weaken the organization. As far as is known, Osama bin Laden was not captured or killed during the campaign. There were reports as Kabul fell to Northern Alliance and international forces that many Taliban and al Qaeda leaders were fleeing to northern Pakistan. While this area is somewhat lawless, Paul Bergne told us that he did not see "any chance at all, with the present political situation in Pakistan and, indeed, in the ... former Soviet republics, of al Qaeda succeeding in building up the sort of arrangements it had in Afghanistan" in these areas. <sup>86</sup>

83 See Ev 36.

<sup>&</sup>lt;sup>82</sup> Q34.

<sup>&</sup>lt;sup>84</sup> O84.

<sup>85</sup> See http://www.un.org/Docs/scres/2001/res1378e.pdf.

<sup>&</sup>lt;sup>86</sup> O87.

- 88. The fall of the Taliban was also, in Mr Bergne's judgement, a "severe blow" to terrorist organizations operating in the Ferghana Valley, to the terrorist Islamic Movement of Uzbekistan, although such organizations would not be destroyed by the changes in Afghanistan. They would continue to have large numbers of sympathizers, because governments in many of the Central Asian republics are seen by political Islamists as "oppressive, inefficient, corrupt and anti-Islamic" and the region is "fertile ground for that version of political Islam." Bergne warned us that the governments of Uzbekistan and Tajikistan were both vulnerable to Islamic revolution, in part because of the widespread poverty of these countries, the failure of their governments to deal with economic problems, and the oppression of legitimate forms of dissent.
- 89. The stability of Central Asia is of crucial importance to the success of the campaign against terrorism. The Government explained to us that it would focus on poverty reduction to help remove "the conditions which enable terrorists to recruit and win support," through "greater coordination with EU, US, international financial institutions and other partners" and "more collaboration between the multilateral organisations." Mr Stephen Wright, Director of Security Policy, FCO, also told us on 5 December that the FCO "before the 11 September had an intention to open an Embassy in Bishkek [the capital of the Kyrgyz Republic] and we are pressing ahead with that plan. Since 11 September we are looking again at the question of whether we should open a small Embassy in Dushanbe, Tajikistan, where up to now we have not had one, principally for security reasons." We welcome the Government's decision to increase diplomatic representation in Central Asia, as recommended by our predecessor Committee in its Report on the South Caucasus and Central Asia in July 1999. We also welcome the opportunities the Government has recognised since 11 September for closer co-operation with Russia to increase security in the region.

#### Co-operation with the United States in the military campaign

- 90. The Foreign Secretary appeared before us on 20 November 2001, when he made clear that the military operation in Afghanistan was executed in full co-operation with the United States. British deployments were undertaken "within the CENTCOM operation, the Central Command of the US under General Tommy Franks." British troops were "not there as some independent operation, they are there with the United States in support of them." 91
- 91. We commend the Government for the speed with which it deployed a sizeable contingent of UK personnel to CENTCOM, and conclude that this deployment made an important contribution to close co-operation with the United States in the campaign in Afghanistan.

#### Preparations for post-Taliban Afghanistan

92. The Foreign Secretary pointed out to us that "well before the military action appeared to be succeeding" he had set out, in public, a framework for the future of Afghanistan. The main points he had made in a speech on 22 October were that:

"First, that the future should, above all, be placed in the hands of the people of Afghanistan themselves;

<sup>88</sup> See Ev 31, para 6.

90 Sixth Report from the Foreign Affairs Committee, Session 1998–99, South Caucasus and Central Asia, HC 349. 03.

<sup>&</sup>lt;sup>87</sup> O88.

<sup>&</sup>lt;sup>89</sup> O67.

Second, that we need a global coalition to help rebuild Afghanistan; Third, that the United Nations should take the lead in the political process; And fourth, that we have to devote the resources and the political will needed to finish the job."<sup>92</sup>

- 93. On 5 December, the Foreign Secretary told us that Britain took a "leading role in the Security Council" on the question of post-Taliban Afghanistan. <sup>93</sup> The United Kingdom drafted UNSCR 1378, which was passed as the Taliban was expelled from Kabul on 14 November 2002. UNSCR 1378 called for the establishment of a new transitional administration which should be "broad-based, multi-ethnic and fully representative of all Afghan people." The resolution also affirmed the "central role" of the United Nations in supporting the Afghan people in establishing this administration, and called member states to provide support to Afghanistan to ensure security was re-established and to provide humanitarian and economic assistance to the country.
- 94. Earlier, Britain had "done a great deal of work behind the scenes, first of all much earlier in proposing that the Secretary General should appoint a special representative." In the event, Lakhdar Brahimi was appointed as the Secretary General's Special Representative for Afghanistan on 3 October 2001. The Foreign Secretary also pointed out that Britain was also the "first country to identify and appoint a senior diplomat to assist in the reconstruction process, in our case Robert Cooper." <sup>94</sup>
- 95. We commend the Government for realising, early in the Afghanistan campaign, the necessity to look beyond its military aspects. We conclude that the Government's planning in this area contributed to the rapid and successful establishment of an interim authority after the fall of the Taliban.

#### Phase I: summary

96. On 5 September 2001, President Bush stated that America had "no more important relationship in the world" than that with Mexico. <sup>95</sup> By 20 September, the President had invited the Prime Minister to join him at a Joint Session of Congress, where he declared that "America has no truer friend than Great Britain." <sup>96</sup> Fears over the future of the "special relationship" before 11 September were probably exaggerated. <sup>97</sup> However, the Government's actions in the immediate aftermath of the attack did much to cement British-US relations at America's time of crisis. <sup>98</sup>

97. What appear to have established Britain as America's most trusted ally in the war against terrorism were the actions taken by the Government to draw together and define a international coalition against terrorism, publicly and through multilateral fora. These actions ensured that, by the end of September, Britain had "a seat at the table" in Washington and ensured that "the views

<sup>&</sup>lt;sup>92</sup> 'Order out of chaos: the future of Afghanistan.' Speech by the Foreign Secretary to the International Institute of Strategic Studies, 22 October 2001.

<sup>&</sup>lt;sup>93</sup> Q42.

<sup>&</sup>lt;sup>94</sup> Q42.

<sup>95</sup> Graham Jones, "End of a special relationship?" http://www.cnn.com, 6 September 2001.

President's address to Joint Session of Congress, 20 September 2001: http://www.whitehouse.gov/news/releases/2001/09.

The headline in *The Daily Telegraph*, for example, was "US special relationship switched to Mexico".

<sup>&</sup>lt;sup>98</sup> For a fuller discussion of this and following points, see Second Report from the Foreign Affairs Committee, Session 2001–2002, *British-US Relations*, HC 327.

of the Blair Government are taken seriously". <sup>99</sup> The Government's articulation of campaign objectives also appears to have shaped coalition policy, seizing the moment of maximum support for counter-terrorist action to ensure that global action was taken to defeat the threat.

- 98. We believe that the Government's support of the UN's role in the war against terrorism was particularly important in these early stages. Without the British initiatives we mention here, the UN may not have been so central to the war against terrorism. We are convinced that this war can only be won through sustained global co-operation. The UN is the only global organisation with a mandate appropriate to this task. The CTC is an important initiative and its success so far depends to a great extent on British leadership.
- 99. We also commend the Government's work towards establishing international legal grounds, through the United Nations Security Council, before responding militarily against the threat of international terrorism. We believe that this focus on establishing a legal basis for action helped to ensure widespread international support for the subsequent military action in Afghanistan, and this holds lessons for future military actions.
- 100. Britain's leadership in the UN role early in the campaign may have influenced, at least for a time, the US Administration's view of the Organisation. On 10 November, President Bush opened the UN 56th General Assembly debate with a speech which appeared to show that the Administration saw the value of the UN in fighting terrorism. The UN, President Bush argued, had already defined the "most basic obligations in this new conflict," in UNSCR 1373. Though the most important decisions in the conduct of the war against terrorism continue to be taken in Washington, not New York, the role of the UN in the global campaign against terrorism is now clearly established.

<sup>99</sup> Q2 [Foreign Secretary].

President Bush's UN General Assembly Speech, 10 November 2001: http://usinfo.state.gov/topical/pol/terror/01111001.htm.

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#### PHASE II: AFTER THE FALL OF THE TALIBAN, 14 NOVEMBER 2001

- 101. Since the overthrow of the Taliban, vital further progress in tackling the terrorist threat has been made. The coalition military operation has ended much of the al Qaeda activity in Afghanistan, and other military and intelligence operations have reportedly disrupted the operation of the network beyond Afghanistan and northern Pakistan. Progress has also been made by the UN Counter-Terrorism Committee, and most member states continue to co-operate to an impressive degree with its work.
- 102. However, al Qaeda remains a threat. Very few of the organisation's leaders have been "brought to justice," and intelligence reports suggest that al Qaeda continues to exist in many countries around the world. Military operations continue in Afghanistan, much of the country outside Kabul remains lawless, and the position of the Interim Administration is far from secure, though we were encouraged by the attitude and the commitment of the Afghan Foreign Minister when he addressed members of the Committee and others in April.
- 103. We are concerned that the international coalition appears less cohesive than it was in the first stages of the war. Divisions have emerged as a consequence of two specific developments. Firstly, there is some disagreement over what should constitute the next phase of the war. Secondly, the escalating crisis in the Middle East has highlighted the differences between the United States and Arab countries over how to resolve the Israeli-Palestinian conflict. These developments have the potential severely to damage international co-operation against terrorism.
- 104. Britain remains closer than any other country to the US Administration in the conduct of the war. However, differences have also emerged between the British and US governments over aspects of Middle East policy, Iran, North Korea, the legal arguments pertaining to potential military action against Iraq, and the overall approach to international law. Most of Britain's European partners share the Government's concerns, and many have proved more vocal critics of the US since the beginning of 2002.
- 105. In this section of the Report, we consider how the pursuit of phase II of the war against terrorism has affected Afghanistan, the international coalition and British-US relations; and how the war has affected and been affected by the situation in the Middle East. Finally, we consider the question of how to prevent weapons of mass destruction from being used by terrorists or by states which support them, and whether the war should be widened.

#### Post-Taliban Afghanistan

106. Since the downfall of the Taliban, important steps have been taken towards the stabilisation of Afghanistan. A timetable has been established, under UN supervision, according to which a council of Afghan leaders—a *Loya Jirga*—is meeting in June 2002 to draw up a constitution for Afghanistan. This should lead to the establishment of a representative government within two years. An interim authority has been established in Kabul, headed by Hamid Karzai, and a United Nations mission to assist in the stabilization and reconstruction process has been created under the supervision of Special Representative Lakhdar Brahimi. At an international donors' conference for Afghanistan, held in Tokyo, US\$4.5 billion was

<sup>&</sup>lt;sup>101</sup> Q13 (Foreign Secretary) and George Tenet, evidence before the US Senate Armed Services Committee:

http://www.senate.gov/~armed\_services/statemnt/2002/March/Tenet.pdf.

<sup>&</sup>quot;Agreement on provisional arrangements in Afghanistan pending the re-establishment of permanent government institutions" (Bonn Agreement): http://www.uno.de/frieden/afghanistan/talks/agreement.htm.

The UN Security Council endorsed the creation of a UN Assistance Mission in Afghanistan on 28 March 2002: http://www.un.org/News/Press/docs/2002/SC7345.doc.htm.

pledged towards Afghanistan's reconstruction, of which US\$1.8 billion was to arrive in the first year. 104 Britain pledged £200m over five years. 105 Even these sums are felt by some commentators to fall well short of Afghanistan's needs.

107. However, Afghanistan still has very far to go towards stabilization and sustained economic development. Only US\$90 million of the amount pledged at the Tokyo conference has actually arrived, and on 6 May the Interim Administration's minister for reconstruction warned that if foreign governments failed to deliver on their commitments, there could be an upsurge of violence. When a number of us visited the UN in March 2002, we were warned that there is an urgent need to establish security throughout Afghanistan to enable the post-conflict economic and political reconstruction process to begin. Britain is helping to train Afghan security forces, but this takes time. It is necessary to disarm, demobilise and reintegrate existing militia. We were warned during our visit to the UN that the stage of peacekeeping may not even be reached if immediate security questions are not addressed. Reintegration measures (for example, job creation for militias) may have to take place before demobilisation and disarmament, to soak up the armed men who have no options other than banditry. Payment of civil servants' salaries is also crucial for the credibility of the Interim Administration.

#### Britain's contribution to post-Taliban stabilization and reconstruction

108. After preliminary meetings in Geneva, the UN, hosted by the German government, held talks at Bonn with all major Afghan parties. The talks, which were chaired by Ambassador Lakhdar Brahimi, resulted in agreement over a post-Taliban interim administration for Afghanistan.<sup>107</sup>

109. The Government established a British observer delegation to the Bonn negotiations for the future of Afghanistan, which were being organized by the UN during the conflict. The observer delegation was headed by a British diplomat, Mr Robert Cooper. The Prime Minister also sent Mr Paul Bergne as an envoy, first, as Mr Bergne told us, "to see if I could be of any assistance in the wings of the [Bonn] conference."

110. The British delegation had no role in conducting the negotiations, which took place behind closed doors to which observer missions had no access. <sup>109</sup> The Foreign Secretary told us that the British delegation was, however, present "at every point and behind the scenes," working "as we should do at supporting the United Nations' lead role actively but not getting in its way." <sup>110</sup> He gave us an example of the active role that Britain had played: he himself had held a "series of conversations with Dr Abdullah Abdullah, with the Russian Foreign Minister and the Iranian Foreign Minister, to try to ensure that the Northern Alliance were positioned correctly in these talks so that they received recognition for their role [in fighting the Taliban] but not to the point where other members of other delegations could not be accommodated within the constitution." <sup>111</sup>

<sup>104 &#</sup>x27;Donors pledge \$4.5 million in Tokyo', see UNDP press release, 22 January 2002: http://www.reliefweb.int/w/rwb.nsf/c7ca0eaf6c79faae852567af003c69ca/8cefbc05fd3d7f79c1256b4a0032d5a7?Open Document

<sup>105</sup> See http://www.britain-info.org/usaterrorism/xq/asp/SarticleType.1/Article\_ID.2059/qx/articles\_show.htm.

<sup>&</sup>lt;sup>106</sup> Agence France Presse, Kabul, 6 May 2002.

<sup>&</sup>quot;Agreement on provisional arrangements in Afghanistan pending the re-establishment of permanent government institutions" (Bonn Agreement): http://www.uno.de/frieden/afghanistan/talks/agreement.htm.
108 O70

<sup>109</sup> Q70 [Mr Bergne].

<sup>&</sup>lt;sup>110</sup> Q42.

<sup>&</sup>lt;sup>111</sup> Q42.

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111. In a press statement on 2 December, Ahmad Fawzi, spokesman for Ambassador Brahimi at the Bonn talks, stated that according to the UN proposals for political arrangements in Afghanistan "the Interim Authority will be composed of an Interim Administration, and a special Independent Commission for the Convening of the Emergency Loya Jirga. It will also consist of a Supreme Court of Afghanistan. The Interim Authority will run the country for a period of six months."

112. The Bonn Agreement to establish this was signed by the Afghan parties on 4 December 2001, and the Interim Authority was established in Kabul on 22 December 2001. The thirtymember cabinet which was finally agreed at Bonn comprised eleven Pashtuns, eight Tajiks, five from the Hazara population, three Uzbeks, and the rest from other minorities. 112 Two women serve in the interim cabinet. The Interim Authority is headed by Hamid Karzai, and Dr Abdullah Abdullah is responsible for the Authority's foreign affairs. We have met both since they were appointed. We have also held discussions with Professor Ismael Qasimyar, who is responsible for the preparations for the Loya Jirga.

#### The International Security Assistance Force

113. The Bonn Agreement provided for an International Security Assistance Force, which was to "assist the Interim Afghan Administration in the maintenance of security for Kabul and its surrounding areas." On 19 December 2001, the Foreign Secretary wrote to the Secretary General of the United Nations offering British forces to provide initial leadership to this Assistance Force, which became known as ISAF.

114. In December, Mr Paul Bergne stressed to us that British forces should be succeeded as rapidly as possible by multinational force, "given the history of our relations with Afghanistan." <sup>113</sup> However, Britain has maintained its leadership of ISAF since the force was established, and will do so until Turkish forces take over the leadership responsibilities at an unspecified date in mid  $2002.^{114}$ 

115. Despite Mr Bergne's warnings, the ISAF appears to have been welcomed by Afghans in Kabul. There have been repeated but unavailing calls from both the Interim Administration and from international agencies working in Afghanistan for its extension beyond the capital. Mary Robinson, UN High Commissioner for Human Rights, wrote on 12 March that "International Security Assistance... must be rapidly expanded and extended beyond Kabul. A new Afghan security force and a civilian police service are being created with support from the international community. Without the success of these initiatives to guarantee human security, there can be little prospect of ensuring respect for human rights."115 The same sentiments were expressed to us by a number of the UN officials we met during our visit to New York in March.

116. We heard on our visit to Washington and New York in March 2002 that the United States is not in favour of extending the International Security Assistance Force beyond Kabul.

<sup>&</sup>lt;sup>112</sup> The ethnic balance resulting from the Bonn negotiations may be corrected by the Loya Jirga in June 2002.

<sup>114</sup> The Secretary of State for Defence informed the House on 29 April that the Turkish Prime Minister's office "issued a statement this morning that it had been decided by the Council of Ministers that Turkey would take over command of the international security and assistance force from the United Kingdom for a period of six months. Obviously, I warmly welcome that announcement. Discussions on the date of transfer are continuing. However, as I told the House on 11 April, we may well have to remain as lead nation until June. In any event, our commitment to ISAF will continue and a significant number of British troops will remain in Kabul under Turkish command." Official Report, 29 April, cols.

<sup>115</sup> International Herald Tribune, 12 March 2002.

The United States prefers to work through regional security chiefs in Afghanistan, via US Special Forces who are responsible for liaising with them. We are concerned that the effect of working through local "warlords" may be to weaken the authority of the Interim Administration in Kabul.

117. The United States Ambassador to Afghanistan said on 10 April 2002 that "nothing that the Interim Authority and international community are trying to do in Afghanistan will work without stability and security." We agree with this assessment: we cannot afford to lose the tentative peace that has been established in parts of Afghanistan. We commend the Government's decision to persist with the leadership of ISAF, and to engage in negotiations leading towards eventual handover of responsibilities to the Turks. We recommend that the Government consider carefully, with the United States and other coalition partners, the options for maintaining and increasing security in Afghanistan, both during and for a significant period after the June 2002 Loya Jirga. This should include consideration of the extension of ISAF beyond Kabul and its immediate area.

United Nations: the work of the Counter-Terrorism Committee

#### What has been achieved by the CTC?

118. Since its establishment on 28 September 2001, the UN Counter-Terrorism Committee has made significant progress towards mapping the response of member states to the demands of Security Council resolution 1373. Co-operation with member states has been maintained to a surprisingly high degree.

119. According to the first CTC 90-day plan, the Security Council divided into three sub-committees, to review member states' reports. This process has now been largely completed. 117 The CTC has also established "at least initial contacts with all regional, subregional and international institutions concerned with counter-terrorism: "118 Sir Jeremy Greenstock believes that regional organisations have potential to enhance the effectiveness of CTC activities. They may help to ensure that the UN's counter-terrorism proposals are handled with sensitivity to regional concerns and are not perceived to be "imposed" by the permanent members of the Security Council.

120. In June 2002, the CTC began to review the second set of member states' reports, which report their progress towards implementation of UN Security Council Resolution 1373. The CTC should shortly be able to begin co-ordinating assistance to enable weak member states to comply with UNSCR1373. Towards this end, the CTC will maintain a web site on its activities, including an online directory of assistance available to member states. <sup>119</sup> Non-compliant states will also be identified, and the CTC will start gradually to apply pressure on them.

121. Sir Jeremy Greenstock, the US legal adviser to the UN and the deputy chairman of the CTC have all told us that they are extremely pleased by member states' responses to the requirement that they report their proposed measures towards implementation of UN Security

Ambassador Robert Finn, US Department of State press release, 10 April 2002: http://usinfo.state.gov/topical/pol/terror/02041103.htm.

See speech by Sir Jeremy Greenstock to the Symposium on "Combating International Terrorism: The Contribution of the United Nations", held in Vienna on 3–4 June 2002:

http://www.un.org/Docs/sc/committees/1373/ViennaNotes.htm

118 Work programme of the Counter-Terrorism Committee, 28 March–25 June 2002: http://www.un.org/Docs/sc/committees/1373/.

<sup>119</sup> See http://www.un.org/Docs/sc/committees/1373/.

Council Resolution 1373. 120 As at 10 June 2002, 33 member states have still not reported. The reports by some member states have, however, been very brief or highly politicised, and therefore most unsatisfactory. There is clearly much more to be done by the Committee as it begins the follow-up process with member states. However, Sir Jeremy is encouraged in many respects by the CTC's progress. He told the Security Council that "virtually all" of the states that had not reported to the CTC had failed to do so because they need assistance, not because they are unwilling to comply with the UN requirements. 121

#### How has the CTC succeeded in maintaining member states' co-operation?

- 122. Some argued, in the wake of the 11 September attacks, that establishing a definition of terrorism would be essential to ensure international co-operation against terrorism. The Australian government took some steps in the UN General Assembly to propose a definition of terrorism which all member states could endorse; however, this has not been agreed. In our evidence session with Professor Paul Wilkinson, we heard that while the lack of international agreement on the definition of terrorism was an "obstacle to getting a general convention" in the United Nations, it "is not any longer ... a main obstacle to practical co-operation." Professor Wilkinson told us that, because it is understood more clearly than before that this form of violence "is a strategic threat to the well being of the international community... the practical co-operation does not get preceded... by days of debate about what terrorism actually is."122
- 123. One explanation for the success of the CTC may be the decision of its Chairman to focus on the technical aspects of implementing UNSCR 1373, and to avoid engagement in negotiations towards an internationally agreed definition of terrorism. Such negotiations are frequently used by member states to make political points. Because the CTC is seen as a "technical" committee in the UN, its work has not been held up by the debate over the definition of terrorism.
- 124. Another important reason for the success of the CTC is clearly the skill, energy and sensitivity with which Sir Jeremy Greenstock, Anna Clunes and other members of the UK Mission to the UN have planned and organised the CTC's activities. All of those with whom we discussed the CTC volunteered praise for Sir Jeremy's work since 11 September.

#### What must be done to ensure the continuing effectiveness of the CTC?

- 125. In the Security Council debate on terrorism on 15 April, the Mexican Permanent Representative stated that, for the UN to be credible, the Security Council must strengthen capabilities to enforce its own resolutions. From credibility and transparency in this respect, he argued, would flow the confidence of the international community in the UN's value in the fight against terrorism.
- 126. A key provision in UNSCR 1373 is the call on member states to ratify the 12 UN and international terrorism conventions and to implement them in full. The United Kingdom is one of only 6 countries to have signed and ratified all 12 conventions related to terrorism which are listed in the Annex to this Report. 123 We commend the British Government for being amongst the first to have both signed and ratified all 12 Conventions related to terrorism

<sup>120</sup> The reports are available at http://www.un.org/Docs/sc/committees/1373/.

<sup>121</sup> Security Council briefing by chairman of Counter-Terrorism Committee, 15 April 2002: http://www.un.org/News/Press/docs/2002/sc7361.doc.htm.

<sup>122</sup> Q99 [Professor Wilkinson].

Official Report, 11 June 2002, col. 1179W. The other states which have signed and acceded to all twelve Conventions and Protocols are Canada, Chile, the Netherlands, Peru and Uzbekistan.

and recommend that the Foreign and Commonwealth Office makes full use of its posts overseas to try to ensure that other UN member states do likewise.

- 127. A number of us visited the UN in March, and heard that CTC work was being held up by delays in translating member states' reports. In the 15 April Security Council debate, Sir Jeremy Greenstock called for an increase in Secretariat translation services to assist the CTC. The Canadian Permanent Representative stated that Canada insisted on limiting the growth of the UN budget, and that therefore UN resources should be shifted to "meet the needs of changing priorities, such as the struggle against terrorism." 124
- 128. The effectiveness of the CTC is not only important for the success of the war against terrorism. The success of the CTC has also demonstrated the value of the UN more broadly, at a time when this was perhaps being questioned by some member states, in particular the United States.
- 129. We understand the concerns expressed by Canada that the UN's budget must not be allowed to grow excessively. However, the vital work of the CTC should not be hampered by inadequate technical resources. It would also be unfortunate if the UN's work in areas which relate to the long term success of the counter-terrorism campaign were to be reduced. In a speech on 6 March, UN Secretary General Kofi Annan argued that there exists a "clear, if complicated, trail from the absence of engagement with Afghanistan in the 1990s to the creation of a terrorist haven there to the attacks on the World Trade Center... it is surely beyond question that ignoring or neglecting [conflict] prevention is a recipe for disaster." It would be short sighted to diminish the UN's capacity to work towards the resolution of conflicts and towards economic development in weak states, in pursuit of the more obvious and immediate aspects of counter-terrorism activity.
- 130. We recommend that, given the additional demands being placed on the UN Secretariat by the work of the Counter-Terrorism Committee, the Government do all it can to ensure that the CTC has adequate resources to fulfil its functions.

#### International law and military action in Afghanistan

- 131. A number of issues relating to international law and the treatment of prisoners have arisen during the course of the war against terrorism. The first relates to the US-led coalition's responsibility for prisoners taken within Afghanistan, and arose when a number of prisoners were killed during an attempted uprising in the Qalai Janghi fort at Mazar-e-Sharif in Northern Afghanistan. There was some criticism of Britain's military role in this at the time: the *Independent on Sunday* reported that "British and American forces participated in last week's slaughter of at least 150 Taliban prisoners of war" at the fort. 126
- 132. It has been argued that, because Britain and the United States allied themselves so closely with the Northern Alliance, they were to some extent responsible for the massacre at Mazar-e-Sharif. Adam Roberts, in his memorandum to the Committee, agrees that it is "a difficult question whether the US and other members of the International Coalition have influence over the Northern Alliance's actions in such basic matters as protection of prisoners." Professor

<sup>&</sup>lt;sup>124</sup> Security Council briefing by chairman of Counter-Terrorism Committee, 15 April 2002: http://www.un.org/News/Press/docs/2002/sc7361.doc.htm.

<sup>&</sup>lt;sup>125</sup> 'Neglecting preventive action a recipe for disaster, Secretary General tells Council on Foreign Relations,'press statement 7 March 2002: http://www.un.org/News/Press/docs/2002/sgsm8154.doc.htm.

<sup>126 &#</sup>x27;Eighty found alive in massacre fortress,' *Independent on Sunday*, 2 December 2001.

<sup>127 &#</sup>x27;Application of laws of war,' see Ev 84, para 15.

Robert points out that the coalition, through its close involvement in the affairs of Afghanistan, has some responsibility: "Even though this [protection of prisoners] is primarily a Northern Alliance responsibility, the Coalition is inevitably involved in the matter." The same might be said of the deaths by asphyxiation of Taliban fighters who were being transported inside metal containers in the heat of the desert, apparently by Northern Alliance forces, <sup>128</sup> and of the conditions in which Taliban prisoners are held in the area of northern Afghanistan controlled by General Dostum, which were described recently by EU envoy to Afghanistan Klaus-Peter Klaiber as resembling those at Auschwitz. <sup>129</sup>

- 133. In his Pentagon press briefing on 30 November, Donald Rumsfeld indicated in general terms (not in connection with the prisoner question) that the US does have influence with the forces with which it operates in Afghanistan: "We have a relationship with all of those elements on the ground. We have provided them food. We've provided them ammunition. We've provided air support. We've provided winter clothing. We've worked with them closely. We have troops embedded in their forces and have been assisting with overhead targeting and resupply of ammunition. It's a relationship." As Professor Adam Roberts pointed out to us, this contrasts with a statement of the Prime Minister, who was asked on 13 November, again in general terms, "What sanctions do we have over the Northern Alliance?" He replied simply, "None." 131
- 134. In October 2001, Professor Roberts had argued that "it was not difficult to foresee that implementation of the laws of war would be a difficult problem in the military operations then in preparation" and he drew attention to "certain obvious issues: the need to conduct coalition operations discriminately; the likelihood of adversary forces executing Coalition prisoners; and the possibility that some captured enemy personnel might not qualify for prisoner-of-war status... A particularly difficult problem was determining where overall responsibility would lie in such matters as treatment of enemy prisoners." 132
- 135. The Foreign Secretary claimed that, though he was "troubled by any killings," he had seen "no good case" in support of holding an inquiry. Mr Straw pointed out that the "heads of the ICRC [International Committee of the Red Cross] themselves said that it needed to be borne in mind that these killings occurred after these prisoners had forcibly rearmed themselves, had broken into armoury and had then taken up aggressive action themselves." Such facts could, of course, have been verified by an inquiry.
- 136. We recommend that the Government continue to do its utmost to ensure that adequate provision is made for the safety and security of prisoners in military operations in which British forces are engaged.

#### The detainees at Guantánamo Bay

137. A further legal question relates to the treatment of persons detained by the US in Afghanistan and transported for questioning to the US military base in Guantánamo Bay, Cuba. More than 300 "unlawful combatants" remain in captivity, from 31 countries. Five of these are British citizens.

129

<sup>128</sup> See http://www.guardian.co.uk/afghanistan/story/0,1284,617203,00.html.

<sup>129</sup> See "Conditions for jailed Taliban 'like Auschwitz'," *The Independent*, 14 May 2002.

<sup>130 &#</sup>x27;Application of laws of war,' see Ev 84, para 15.

<sup>131 &#</sup>x27;Application of laws of war,' see Ev 84, para 15.

<sup>132</sup> See Ev 84, para 10.

<sup>&</sup>lt;sup>133</sup> Q30.

- 138. The US has refused to grant these "detainees" prisoner of war (POW) status, and the Administration contends that the Geneva Conventions do not apply to the detainees. In the words of the US Embassy in London: "The President has determined that the Geneva Convention applies to the Taliban detainees, but not to the al-Qaida detainees. Al-Qaida is not a state party to the Geneva Convention; it is a foreign terrorist group. As such its members are not entitled to POW status. Under the terms of the Geneva Convention, however, the Taliban detainees do not qualify as POWs. Therefore, neither the Taliban nor al-Qaida detainees are entitled to POW status [although] they are being provided many POW privileges as a matter of policy." 134
- 139. Speaking before the camp at Guantánamo Bay was set up, the Foreign Secretary told us that "We have to ensure that terrorist prisoners of war are treated in accordance with international law." However, since the camp was established, government Ministers and spokesmen have no longer referred to terrorist detainees as "prisoners of war."
- 140. We understand that the US authorities have made "no decisions... on the disposition of the detainees currently being held. The fate of the detainees will be determined on a case-by-case basis." We heard during our visit to Washington in March 2002 that if, after review, the US decides that a detainee does not pose a significant security threat, he will be repatriated. However, the US claims "every right" to detain certain individuals "for the duration of the conflict," even if they are acquitted of specific crimes. <sup>137</sup> Victory in the war against terrorism is difficult to foresee. This leads us to question how long the US intends to keep these individuals in custody.
- 141. The US President made an executive order on 13 November 2001, to establish special military commissions to try the "unlawful combatants." The announcement of these special commissions provoked considerable controversy in the US and elsewhere. On 21 March 2002, the Department of Defense presented additional procedural guidelines for these commissions. They are designed to try non-US citizens selected by the US President, to include al Qaeda members, people involved in acts of terrorism against the United States, and people who knowingly harboured such terrorists. The procedural guidelines released on 21 March allay some of the fears initially voiced about the commissions: for example, the Department of Defence made clear that suspected terrorists would be granted the presumption of innocence, the right to choose counsel and to see the prosecution's evidence, and to trial in public—though classified information would be kept secret. Those arraigned would also be granted the right to remain silent.
- 142. However, there is no jury. An appeal procedure is only to a panel of judges appointed by the military: non-US citizens cannot appeal to US federal courts. Detention is indefinite. For these reasons, the military commissions continue to prompt considerable criticism, both inside and outside the United States. <sup>140</sup> The lawyer and academic Ronald Dworkin, assessing the clarified rules for the commissions, described the Administration's decision to prevent appeals

136 See Ev 104 (US reply), para 32.

<sup>&</sup>lt;sup>134</sup> See Ev 104 (US reply), para 29.

<sup>&</sup>lt;sup>135</sup> Q62.

<sup>&</sup>lt;sup>137</sup> US Secretary of State for Defense Donald Rumsfeld, Department of Defense press release, Washington, 28 March 2002.

See for example 'Presidential order on Military Tribunals threatens fundamental principles of justice,' Amnesty International press release, 15 November 2001: http://www.amnesty-usa.org/news/2001/usa11152001.html; 15 November 2001, 'US: New commissions threaten rights, credibility,' Human Rights Watch: http://www.hrw.org/press/2001/11/miltribs1115.htm.

DoD presents procedural guidelines for military commissions, US Department of Defense press release, 21 March 2002.

<sup>&</sup>lt;sup>140</sup> See, for example, William Safire, 'Military tribunals modified,' New York Times, 21 March 2001.

to civilian courts as "indefensible. The new procedures permit a prisoner to be tried in secret and sentenced to death on evidence that neither he nor anyone else outside the military—no-one, that is, not under the Pentagon's direct command—has even heard." Dworkin concluded that "we have no right to roam the world arresting foreigners we think might be dangerous and keeping them in our jails when we cannot show them to have committed any crime." 141

- 143. The international coalition needs to be seen to treat prisoners justly. 'Winning hearts and minds' in the Islamic world is tremendously important for the long term success of the war against terrorism, and prisoners taken in Afghanistan have not been universally perceived to have been treated humanely and with justice. As Rosemary Hollis also pointed out to us "once you abandon attention to the means" in the war against terrorism, "you influence the ends." 142
- 144. We conclude in relation to the detention of Taliban and al Qaeda suspects, as we do in relation to other matters, that the Government must strive to uphold standards of international law, and, to the greatest extent possible, to ensure that prisoners are tried in full accordance with internationally accepted norms of justice.
- 145. We recommend that the Government consider whether the Geneva Conventions remain wholly appropriate in the modern conduct of warfare. If they do not, there may be a need to work towards a new international consensus to amend the Conventions, to ensure that the protection that they provide to civilians and combatants is maintained.

#### The International Criminal Court

146. In our Report on British-US Relations, we noted the reluctance of the United States Administration to invite the Senate to ratify the Treaty establishing an International Criminal Court. We called on the Government to continue its dialogue with the Administration; in its response, the Government undertook to do this, with a view to persuading the US of the merits of ratification of the Treaty. Since then, sufficient signatories to the Treaty have ratified it to trigger the establishment of the Court, which is expected on 1 July 2002.

147. We believe that it is in the interests of the war against terrorism to ensure that the International Criminal Court is established and functions effectively. Though the ICC will be unable to try those responsible for the atrocities of 11 September, the war against terrorism is likely to continue for some years. There is a danger that further acts of terrorism may be committed against US, British or other coalition partners' citizens. The ICC, once established, should ensure that those responsible for such acts can be tried according to an internationally recognised system of criminal justice, even if attacks took place beyond US, British or other coalition partners' territories.

148. However, on 6 May 2002 the United States effectively withdrew from the ICC Treaty. Under-Secretary John Bolton wrote to Kofi Annan, declaring that "the United States does not intend to become a party to the treaty. Accordingly, the United States has no legal obligations arising from its signature on December 31, 2000." The US nonetheless asserts that its action is consistent with its obligations under the Vienna Convention on the Law of Treaties. 146

Ronald Dworkin, 'The trouble with the Tribunals,' New York Review of Books, 25 April 2002.

<sup>&</sup>lt;sup>142</sup> Q157

See Second Report from the Foreign Affairs Committee, Session 2001–2002, *British-US Relations*, HC 327, paras 122–128.

<sup>&</sup>lt;sup>144</sup> Cm. 5372, p 6.

See http://www.state.gov/r/pa/prs/ps/2002/9968.htm.

See http://www.state.gov/p/9949.htm.

149. Explaining the US Administration's action, Under Secretary for Political Affairs Marc Grossman said:

"We believe the ICC undermines the role of the United Nations Security Council in maintaining international peace and security.

We believe in checks and balances. The Rome Statute creates a prosecutorial system that is an unchecked power.

We believe that in order to be bound by a treaty, a state must be party to that treaty. The ICC asserts jurisdiction over citizens of states that have not ratified the treaty. This threatens US sovereignty.

We believe that the ICC is built on a flawed foundation. These flaws leave it open for exploitation and politically motivated prosecutions."<sup>147</sup>

- 150. Other governments do not share these concerns. But while the legal status of Mr Bolton's letter may be disputed, its effects are clear: the United States will not regard its citizens to be accountable before the International Criminal Court, and will not co-operate with the Court.
- 151. We deeply regret this action of the United States Administration. We acknowledge the concerns of the US, but we believe they could and should have been dealt with by diplomacy. We recommend that the Government seek to allay the concerns of the US Administration about the International Criminal Court, with a view to persuading it to reconsider its renunciation of the ICC Treaty.

#### The conflict in the Middle East and the War against Terrorism

#### American and British perceptions

- 152. Days after the terrorist attacks, on 14 September, the Prime Minister told the House that "now, more than ever, we have reason not to let the Middle East Peace Process slip still further but if at all possible reinvigorate it." <sup>148</sup>
- 153. The Foreign Secretary met Israeli Prime Minister Ariel Sharon on 26 September, and promised to seize the opportunities presented by the crisis to "redouble" British efforts towards promoting peace between the Israelis and Palestinians. <sup>149</sup> On 15 October, the Prime Minister held talks with Palestinian Authority Chairman Yassir Arafat, and called for a reinvigorated approach to the peace process in the Middle East. <sup>150</sup> The Foreign Secretary told us that there was an urgent need to return to a peace process, because "the conflict in the Middle East has unquestionably helped create a climate in which terrorists can both hide and breed." <sup>151</sup>
- 154. In the initial stages of the campaign, the US Administration appears to have sought to separate the issues of international terrorism and the conflict in the Middle East. In his speech to the UN General Assembly on 10 November, President Bush stated that the US would "do

<sup>147</sup> See http://www.state.gov/p/9949.htm.

<sup>148</sup> Official Report, 14 September 2001, col. 604.

FCO website, 26 September 2001, cit.11 September 2001: the response, House of Commons Library Research Paper No. 01/72, 3 October 2001.

BBC news, 15 October 2001, 'Blair urges mid-east progress':
 http://news.bbc.co.uk/hi/english/uk\_politics/newsid\_1599000/1599073.stm
 O18

all in our power" to bring the Israelis and Palestinians back into negotiations. The Middle East was not linked to the war against terrorism, but instead referred to as a separate aspect of the United States foreign policy agenda. Jack Straw, in his evidence on 20 November, also quoted his US counterpart Colin Powell as stating that the war against terrorism was not the only priority of the US, that the US had "other interests too important to ignore," such as the Middle East. 152

155. Osama bin Laden has claimed in many of his statements that one of his central objectives is to end the suffering of Palestinians. In the aftermath of the terrorist attacks, it was natural to ask whether links existed between al Qaeda and Palestinian militants. The representatives of the Office of the United Nations Special Co-ordinator in the Occupied Territories (UNSCO), Michael Keating and Andrew Gilmour, told us in January 2002 that they had seen "no evidence whatsoever of links between the Palestinian authority or even Palestinian fundamentalist groups and al Qaeda."153 Mr Keating suggested to us that "the Israeli/Palestinian conflict has been exploited by al Qaeda as an additional reason to explain and justify their actions, but I do not think al Oaeda is doing what it has been doing to help the Palestinians, and I do not think many Palestinians think this either. I do not think that a successful pursuit of actions against al Qaeda would in any way stop the violence continuing in the Middle East." <sup>154</sup>

156. Rosemary Hollis shared this view of the differences between the terrorist problem in the Middle East and al Qaeda: although, in her view, there "may be one or two Palestinians within the network... there is a distinction between that [al Qaeda terrorist campaign] and the current campaign of the Palestinians limited to ending the Israeli occupation." <sup>155</sup> Most of the militant Palestinian groups have a specific objective—the ending of Israeli occupation and the establishment of a Palestinian state—while al Qaeda's objectives are much broader and illdefined. Dr Hollis pointed out that, originally, the Palestinian suicide bombers were "not identified as part of the problem which was to be fought in the war on terrorism." <sup>156</sup>

157. However, the Foreign Secretary told us that "My sense is that actually with the suicide bombings of 1 and 2 December US sympathy for the Israelis was so profound that that was the moment at which they decided that the Palestinian suicide bombers were part of the same enemy that they were fighting themselves."157 We asked the US Embassy for a statement of their position on the Middle East and the war against terrorism. They told us: "US policy is clear: we support a Palestinian state; we support Israel with secure borders; we support each at peace with the other. Whatever the criticisms or anti-American sentiment in the region or further afield, we shall persevere in encouraging peaceful resolution of the Arab-Israeli conflict while also pursuing the war on terrorism to a successful conclusion."158

#### Regional perceptions

158. The Government of Israel has been explicit in identifying a clear link between the war against global terrorism and its own actions against armed Palestinian groups. On 23 April, Prime Minister Sharon told the American Israel Public Affairs Committee that "In Afghanistan, the United States is fighting terrorism; sometimes innocent civilians are caught in the crossfire. Israel is fighting terrorism on our doorstep. We have a moral right to defend ourselves. Terrorists in Washington, Tel Aviv or any other place have no right to murder innocent civilians

<sup>&</sup>lt;sup>152</sup> Q20.

<sup>153</sup> Q115. 154 Q133.

<sup>155</sup> Q158

<sup>&</sup>lt;sup>156</sup> Q158.

<sup>&</sup>lt;sup>157</sup> Q170.

<sup>&</sup>lt;sup>158</sup> See Ev 103 (US reply), para 19.

indiscriminately."159 The US Administration and the British Government have also asserted Israel's right to take action against those who perpetrate acts of terror, though without linking such action to the wider war against terrorism. 160

- 159. The apparent popularity in many Arab and Islamic countries of Osama bin Laden's message, which demands the removal of US influence in the Arabian peninsular, can be attributed in part to the widespread perception in the region that US foreign policy is one-sided and hurts Arab populations in Iraq and Palestine. Dr Rosemary Hollis told us that, in interviews since the late 1990s, Osama bin Laden has consistently mentioned "Palestine and injustice to Palestinians" and that he takes care to associate "security for Palestinians" with "security for the Iraqi people. These happen to be two very raw nerves across the Arab world and to a large extent across the wider Muslim community... On purely political grounds, as opposed to theological or religious in any way, the key items articulated by Osama bin Laden are sources of unrest and irritation and anger."161
- 160. The governments of many Arab and other Islamic countries have so far co-operated well in the non-military aspects of the campaign against terrorism, in the UN and elsewhere. However, the continuing conflict in the Middle East makes it more difficult for these governments to be seen to co-operate with the international coalition against terrorism, especially if the next stage of the war is to involve action against Iraq. As Ben Bradshaw told us on 23 April: "the current state of affairs in Israel/Palestine makes any idea of military action against Iraq politically in the region a great deal more difficult... The appetite [for military action against Iraq] in many Arab countries whose leaders do not have a lot of time for Saddam Hussein and, in private, would dearly love to see the back of him... is diminished by the situation in the Middle East." <sup>162</sup>
- 161. We conclude that a linkage between the conflict in the Middle East and the war against terrorism is widely perceived among populations and governments in the region. Both the US and British governments appear to accept that the conflict is a factor which severely complicates their conduct of the war, although it does not weaken their resolve. While the conflict in the Middle East requires swift and fair resolution on its own merits, this perceived linkage lends added urgency to the search for peace.
- 162. Events continue to move quickly in the Middle East, and we do not intend in this Report to make recommendations about how the crisis may be resolved. This Committee and the House will wish to be kept informed by the Government of further developments over the coming weeks and months.

#### Saudi Arabia and Egypt

163. For the war against terrorism to succeed in the long run, many of the new allies must address internal problems affecting their economies and societies. Both Saudi Arabia and Egypt are key allies for the United States, yet these countries have also been shown to be sources of terrorism: fifteen of the nineteen terrorists on 11 September held Saudi passports, and Muhammad Atta, the suspected mastermind, was Egyptian. We heard from many people during our March visit to Washington, and also from one of our witnesses, Dr Rosemary Hollis, that the involvement of so many Saudi citizens in the 11 September attacks had provoked something of

<sup>159</sup> See www.mfa.gov.il/mfa/go.asp?MFAH011s0.

<sup>&</sup>lt;sup>160</sup> See for example President Bush's press conference with Prime Minister Ariel Sharon, 10 June 2002, available at http://www.whitehouse.gov/news/releases/2002/06/20020610-1.htm; Tony Blair, Official Report, 10 April 2002, Col.

<sup>&</sup>lt;sup>161</sup> Q139.

<sup>&</sup>lt;sup>162</sup> Q255.

a crisis of confidence in Saudi Arabia: the "al Saud are considering very seriously what the state of play is in the kingdom, whether there were some trends which they previously thought were a domestic matter which they could handle which have turned out to have a foreign agenda against the United States and they are now faced with the crisis that they need to address." <sup>163</sup>

164. Saudi Arabia, Egypt and other Islamic countries are experiencing escalating demographic growth and social change, factors which create an environment conducive to the growth of extremism. <sup>164</sup> In Saudi Arabia, the dominance of the education system by the conservative clerics and the absence of a modern banking system are impeding economic development. Professor Fred Halliday told us that the "biggest problem in the Muslim world is unemployment, which people do not talk about. We devote far too much to Jihad and Sharia and not enough about jobs and corruption." Opinion polls suggest an alarming level of support for Osama bin Laden's cause. <sup>166</sup>

165. It was very disappointing that the Saudi government would not see the Prime Minister on his regional visit in early October 2001, and that they would not allow the international coalition to use the Saudi bases for missions to Afghanistan. Osama bin Laden's main stated reason for his anti-American activities is the presence of US troops in the holy land of Saudi Arabia during and after the Gulf War, a presence that continues. These troops were and are there to protect Saudi Arabia from Iraqi attack.

166. Dr Hollis suggested that a dangerously high level of popular discontentment in many Arab countries contributed to the growth of anti-Western groups such as al Qaeda. The relative quiet of the "Arab street" in the war against terrorism was a sign political of repression: "all forms of assembly in almost every Arab country are forbidden, so to assemble and demonstrate ... is very difficult to do." As a consequence of the absence of political liberties, dissent is focused in the mosque or through the Internet. Dr Hollis argued that al Qaeda activism and terrorism should be interpreted as "an expression that ultimately emanates from the Arab street." Instead of looking for revolution and an expression of widespread discontent, we should be looking out for "the creation of new al Qaeda type, anti-United States, anti-Western ... activists [and] militants." <sup>168</sup>

167. The West's allies in the Islamic world need to address their internal problems, which appear to contribute to the popularity of Islamic extremism. We recommend that the Government consider carefully how to help allies in the Islamic world to address the social, economic and political conditions that have led to the growth of Islamic extremism among their populations.

164 CIA Director George Tenet told the US Senate Armed Services Committee on 19 March 2002 that "We have already seen—in Afghanistan and elsewhere—that domestic unrest and conflict in weak states is one of the factors that create an environment conducive to terrorism. More importantly, demographic trends tell us that the world's poorest and most politically unstable regions—which include the Middle East and Sub-Saharan Africa—will have the largest youth populations in the world over the next two decades and beyond. Most of these countries will lack the economic institutions or resources to effectively integrate these youth into society."

16

<sup>&</sup>lt;sup>163</sup> O149 [Rosemary Hollis].

<sup>&</sup>lt;sup>165</sup> Evidence to the Foreign Affairs Committee on British-US Relations, 30 October 2001, Q11.

<sup>&</sup>lt;sup>166</sup> A Saudi survey taken shortly after the September 11 attacks reported that 95 per cent of educated Saudi men between the ages of 25 and 41 backed bin Laden's cause. Source: Council on Foreign Relations, http://www.terrorismanswers.com/coalition/saudiarabia\_print.html.

<sup>&</sup>lt;sup>167</sup> O150 [Rosemary Hollis].

<sup>&</sup>lt;sup>168</sup> Q150 [Rosemary Hollis].

#### The United States' Nuclear Posture Review

168. In early March 2002, the Bush Administration's Nuclear Posture Review statement was leaked. The *Los Angeles Times* reported that the "Bush administration has directed the military to prepare contingency plans to use nuclear weapons against at least seven countries and to build new smaller nuclear weapons for use in certain battlefield situations, according to a classified Pentagon report. The secret report, which was provided to Congress on Jan. 8, says the Pentagon needs to be prepared to use nuclear weapons against China, Russia, Iraq, North Korea, Syria, Iran, and Libya. It says the weapons could be used in three types of situations: against targets able to withstand nuclear attack; in retaliation for attack with nuclear, biological, or chemical weapons; or 'in the event of surprising military developments." 169

169. In a news release, the Pentagon stated that it "would not comment on selective and misleading leaks;" the Nuclear Posture Review is "required by law" and is "a wide-ranging analysis of the requirements for deterrence in the 21st century." In a press conference on 11 March, Vice President Dick Cheney described the Nuclear Posture Review statement as "a regular report to the Congress on the overall state of our capabilities and gives some idea of the directions we would like to move in in the future... the notion that I have seen reported in the press that somehow this means we are preparing pre-emptive nuclear strikes against 7 countries I believe was... a bit over the top." The US Embassy in London told us that "The Department of Defense continues to plan for a broad range of contingencies and unforeseen threats to the United States and its allies." 170

170. The Government's position on first-use of nuclear weapons is set out in the 1998 Strategic Defence Review:

"Britain has repeatedly made it clear that we will not use nuclear weapons against a non-nuclear-weapon State not in material breach of its nuclear non-proliferation obligations, unless it attacks us, our Allies or a State to which we have a security commitment, in association or alliance with a nuclear-weapon State." 171

171. The question then arises, whether the US or the United Kingdom would countenance using nuclear weapons first against a non-nuclear state in possession of—or harbouring terrorists in possession of—not just nuclear weapons but any weapon of mass destruction: nuclear, chemical or biological. We recommend that in its response to this Report the Government state clearly what is its policy on first use of nuclear weapons, with particular reference to dealing with the threat posed by chemical and biological weapons of mass destruction.

#### Tactical nuclear weapons

172. The destruction of deep cave complexes, such as those apparently used by al Qaeda terrorists in Afghanistan as troop shelters, arms dumps or as factories for the production of chemical or biological weapons, requires the deployment of huge force. In March, there were reports that the US was considering development of a new generation of "bunker buster bombs". These would be tactical nuclear weapons, for use on the battlefield, rather than long-range strategic nuclear weapons, possession of which is limited by international treaty.

Los Angeles Times, 9 March 2002.

<sup>&</sup>lt;sup>170</sup> See Ev 105 (US reply), para 50.

<sup>171</sup> Strategic Defence Review, London, The Stationery Office, July 1998, para 31.

<sup>172</sup> The Independent, 19 March 2002.

173. The development of a new generation of tactical nuclear weapons in response to the terrorist threat would have implications for arms control policy and would have to be conducted in such a way as to comply with existing treaty obligations, for example under the nuclear Comprehensive Test Ban Treaty. We recommend that in its response to this Report the Government set out its policy on the development of new tactical nuclear weapons.

#### Weapons of mass destruction and terrorism

174. The Government has been clear from the beginning of the campaign that preventing the spread of weapons of mass destruction (WMD) is part of the war against terrorism. In October 2001, the Government stated that its "wider campaign" objectives would be pursued through "renewed efforts to bear down on Weapons of Mass Destruction proliferation." It also noted that the United Kingdom could be a target of terrorist attack. The Prime Minister had earlier said that "we know that [the terrorists] would, if they could, go further and use chemical, biological or even nuclear weapons of mass destruction."

175. George Tenet, the director of the CIA, stated in March 2002 that terrorist groups worldwide "have already access to information on chemical, biological, and even nuclear weapons via the Internet, and we know that al Qaeda was working to acquire some of the most dangerous chemical agents and toxins. Documents recovered from al Qaeda facilities in Afghanistan show that bin Laden was pursuing a sophisticated biological weapons research programme."<sup>176</sup>

176. We share the British and US governments' concern about the threat of WMD falling into terrorists' hands. Our predecessor Committee, in its Report on Weapons of Mass Destruction, stated that "the possibility that a terrorist organisation might obtain possession of a nuclear, chemical or biological weapon is a matter of the utmost concern [and] has horrific potential' and was told by the FCO that "one hundred kilograms of anthrax released from the top of a tall building in a densely populated area could kill up to three million people." The attacks of 11 September highlighted the crucial importance of strengthening international controls over the nuclear, chemical and biological materials that could be used to create weapons of mass destruction. We conclude that the Government was right to highlight in grave but measured terms the threat of weapons of mass destruction attack by terrorists, including the threat to the United Kingdom.

#### Nuclear weapons

177. The House of Commons Defence Committee has cited evidence that, although terrorist organisations are unlikely to have obtained the technology to launch nuclear explosions, they may have been trying to obtain radiological materials which, when combined with conventional explosives, can produce radiological contamination.<sup>178</sup> In his evidence to the Senate Armed Services Committee on 19 March 2002, the Director of the CIA also said that al Qaeda "may

<sup>173</sup> See http://www.fco.gov.uk/text\_only/news/keythemehome.asp?34&printVersion=yes.

<sup>174</sup> See http://www.fco.gov.uk/news/dynpage.asp?Page=10846&Theme=34&Template=999.

<sup>175</sup> Official Report, 14 September 2001, col. 606.

Worldwide threat—converging dangers in a post 9/11 world. Testimony of Director of Central Intelligence George J Tenet before the Senate Armed Services Committee, 19 March 2002.

<sup>&</sup>lt;sup>177</sup> See Eighth Report from the Foreign Affairs Committee, Session 1999–2000, *Weapons of Mass Destruction*, HC 407, para 123. The warning about anthrax was given in a FCO paper issued on 4 February 1998, entitled *UN Special Commission (UNSCOM)*.

<sup>&</sup>lt;sup>178</sup> See Second Report from the Defence Committee, Session 2001–2002, *The threat from Terrorism*, HC 348, para 69.

be pursuing a radioactive dispersal device—what some call a 'dirty bomb." He went on to state that "we are concerned about the possibility of significant nuclear technology transfers going undetected." <sup>180</sup>

- 178. Our predecessor Committee noted the problems associated with proliferation of nuclear weapons and materials, and non-compliance with the Treaty on Non-Proliferation of Nuclear Weapons. North Korea and Iraq remain potential sources of nuclear materials for terrorists, as do black markets in Pakistan and China. The Russian Government's degree of control over nuclear materials also gives cause for concern. According to the CIA director, "Russian entities continue to provide other countries with technology and expertise applicable to CW, BW, nuclear and ballistic and cruise missile projects. Russia appears to be the first choice of proliferant states seeking the most advanced technology and training." The fear is that these materials may also become available to terrorists.
- 179. Mr Stephen Wright, Director of Security Policy, FCO, told us on 20 November that before and since 11 September the FCO had been "in touch with the Russian authorities about risks of terrorism in the WMD field... [to] discuss with them (within the limits of state security that they impose and we impose) the safety of nuclear materials in Russia... since 11 September those discussions and the degree of frankness has somewhat improved because there is no doubt about the political commitment of the Russian government to combatting these threats." Despite the "enhancement of political commitment," Mr Wright told us that the problems of controlling weapons of mass destruction (WMD) from Russia and other sources remain extremely "difficult to get at." despite the "enhancement" and other sources remain extremely "difficult to get at." 184
- 180. In our Report on British-US Relations, we noted "the crucial importance of co-operative threat reduction programmes in preventing further proliferation of weapons of mass destruction" and recommended that "in view of the US Administration's proposal to cut the Department of Energy's funding for Co-operative Threat Reduction programmes, ... the Government continues to stress to the US the utmost importance it attaches to such programmes and reports to the Committee on progress to establish an international financing plan for them." This recommendation remains of central importance in the war against terrorism and we have therefore requested further information from the Government on CTR and related programmes, which we will report to the House.
- 181. We recommend that the Government continue to urge the international community to do its utmost to prevent nuclear, biological and chemical weapons materials getting into the hands of terrorists.
- 182. We also welcome the agreement of the new NATO-Russia Council (NRC), which was signed on 28 May 2002 in Rome. We hope that the NRC will ensure even greater co-operation between Russian authorities and NATO members towards controlling the leakage of nuclear materials.

Worldwide threat—converging dangers in a post 9/11 world. Testimony of Director of Central Intelligence George
 J Tenet before the Senate Armed Services Committee, 19 March 2002.
 Ibid

<sup>&</sup>lt;sup>181</sup> See Eighth Report from the Foreign Affairs Committee, Session 1999–2000, *Weapons of Mass Destruction*, HC 407, especially paras 57–58.

Worldwide threat - converging dangers in a post 9/11 world. Testimony of Director of Central Intelligence George J Tenet before the Senate Armed Services Committee, 19 March 2002.

183 O27

<sup>184</sup> Q27.

See Second Report from the Foreign Affairs Committee, Session 2001–2002, *British-US Relations*, HC 327, para 103.

#### Chemical weapons

183. The House of Commons Defence Committee heard evidence on the dangers of terrorists obtaining chemical weapons materials, and this is detailed in their recent Report to the House. 186 The US CIA director also gave evidence before the US Senate Armed Services Committee on the threat from chemical weapons in March 2002, in which he argued that China's export of CW-related materials to Iran was a particular source of concern. 187

184. In addition to the Defence Committee's conclusions, we note the important role played by the Organisation for the Prohibition of Chemical Weapons (OPCW) in monitoring and helping states to destroy CW stockpiles. According to NATO, the world's declared stockpiles of 70,000 tonnes of chemical weapons and more than 8 million munitions have been inspected by OPCW inspectors, and the four countries that have declared possession of chemical weapons are all actively engaged in their destruction, although one of them—Russia—has encountered problems caused by limited funding for CW destruction programmes. <sup>188</sup>

185. The OPCW has also faced difficulties recently because of the removal of its director, José Bustani. We merely note here the importance of the OPCW for the international control of chemical weapons. We recommend that the Government do its utmost to ensure that the new director of the Organisation for the Prohibition of Chemical Weapons is able to act independently, and for the benefit of all member states of the Organisation.

#### Biological weapons

186. The threat from bio-terrorism was highlighted on 12 October 2001, when the first of a series of incidents of anthrax contamination was reported in the United States. These incidents, in which anthrax spores were packed into envelopes and delivered by the postal service, continued throughout October and November. By 14 November, twenty two cases of bio-terrorism anthrax had been identified by US Centers for Disease Control and Prevention. These attacks prompted speculation that the next phase of the terrorist attacks would be through the large scale use of biological agents.

187. Fortunately, the spate of anthrax attacks that took place in the United States at the end of 2001 appears to have ceased. Yet the threat of biological weapons attack remains severe, as evidenced by the Government's sensible precaution of acquiring large stocks of smallpox vaccine. The Biological and Toxin Weapons Convention (BTWC), which bans the development, testing, production and stockpiling of bacteriological (biological) and toxin weapons, came into force in 1975. However, there are currently no agreed procedures to verify compliance with the Convention, and this accounts for the weakness of international controls over biological agents. The United Kingdom has played a leading role in negotiations among an ad hoc group of states, which has met twenty three times since 1995 to strengthen the BTWC through inclusion of a legally-binding verification protocol.

188. In our Report on British-US Relations, we noted the United States' rejection in July 2001 of the draft BTW verification protocol. This rejection led to suspension of the Ad Hoc Group's negotiations for 2001. The process was not seen as viable without the engagement of the United States.

See Second Report from the Defence Committee, Session 2001–2002, *The threat from Terrorism*, HC 348, para 55ff.
 Worldwide threat - converging dangers in a post 9/11 world. Testimony of Director of Central Intelligence George
 J Tenet before the Senate Armed Services Committee, 19 March 2002.

<sup>&</sup>lt;sup>188</sup> See http://www.janes.com/press/pc010305.shtml.

See Second Report from the Foreign Affairs Committee, 2001–2002, *British-US Relations*, HC 327, paras 91–99.

189. We have previously encouraged the Government to bring the United States back to negotiations towards an international BWC verification protocol. 190 We therefore welcome publication by the FCO on 29 April 2002 of a Green Paper on strengthening the Convention. 191 It is our intention to hear evidence on the Green Paper later this year. Meanwhile, we restate the conclusion from our Report on British-US Relations, that the only way to establish whether states are developing biological and toxin weapons is to establish a mandatory, on the ground challenge inspection system to verify compliance to the Biological and Toxin Weapons Convention. Improving states' control of biological and toxin agents is a necessary component of international co-operation to ensure that they do not fall into the hands of terrorists. We commend the Government for publishing its Green Paper on strengthening the Biological and Toxin Weapons Convention, and recommend that it continue its efforts to persuade the United States to agree an effective verification regime.

#### WMD and terrorism: conclusions

190. The Ministry of Defence Document Defending against the threat of Biological and Chemical Weapons, published in July 1999, states that "the Home Office and the Foreign and Commonwealth Office hold the responsibility for co-ordinating the response to the terrorist threat to the UK itself and our interests overseas respectively." We recommend that the FCO set out clearly and fully in its response to this Report its specific responsibilities for preventing weapons of mass destruction attacks against the United Kingdom, its citizens and its interests overseas.

191. Terrorist groups are unlikely to advertise their attempts to possess or to develop weapons of mass destruction, but information on their intentions may nonetheless be gathered by good intelligence work. Government Communications Head Quarters (GCHQ) and the Secret Intelligence Service are agencies for which the FCO is responsible. We recommend that the FCO, through these agencies, ensure that the highest priority is given to identification and prevention of attack on the United Kingdom or on British interests overseas by terrorists using weapons of mass destruction.

#### Dealing with states which support terrorism

#### The Bush Doctrine and the "axis of evil"

192. The "Bush Doctrine" has been gradually extended since 11 September. First, President Bush had sworn to go after terrorists. Then he had sworn to go after states which sponsor terrorism or harbour terrorists. <sup>193</sup> By the beginning of 2002, he was pledging to include in his war against terrorism those states which possess weapons of mass destruction which might fall into the hands of terrorists. In the State of the Union address on 29 January, he set out his "two great objectives:"

"First, we will shut down terrorist camps, disrupt terrorist plans, and bring terrorists to justice. And, second, we must prevent the terrorists and regimes who seek chemical, biological or nuclear weapons from threatening the United States and the world."

Government Green Paper "Countering the threat from biological weapons", 29 April 2002: http://www.number-10.gov.uk/output/page4881-asp.

192 See http://www.mod.uk/issues/cbw/.

<sup>190</sup> Ibid.

<sup>193</sup> President George W Bush's address to the nation, 8.30pm EST, 11 September 2001: http://www.whitehouse.gov/news/releases/2001/09/20010911–16.html.

193. In his State of the Union address, President Bush described North Korea, Iran and Iraq "and their terrorist allies" as an "axis of evil" which poses a "grave and growing danger... In any of these cases, the price of indifference would be catastrophic." The "axis" states were clearly linked in the speech to terrorism, and Bush went on to declare that the US would "work closely with our coalition to deny terrorists and their state sponsors the materials, technology, and expertise to make and deliver weapons of mass destruction." In May, Under Secretary of State John Bolton named Libya, Syria and Cuba as further states "beyond the axis of evil," against which the United States was prepared to take action if necessary.

#### International coalition reactions to the "axis of evil" speech

194. The President's State of the Union address exposed disagreements in the international coalition against terrorism, which until that point had displayed remarkable unanimity of purpose. One of the most vociferous critics of the "axis of evil" notion was European Commissioner for External Relations, Chris Patten, who described the President's speech as "absolutist and simplistic." Other European leaders expressed similar concerns. The French Foreign Minister described the "axis of evil" notion as "simplistic," and the German Deputy Foreign Minister stated that diplomatic rather than military means should be employed to deal with Iraq's WMD. 199

195. The Foreign Secretary commented after President Bush's speech that the "axis of evil" was more of a vote-winning tactic in forthcoming US elections than a military strategy. Speaking after talks with US Secretary of State Colin Powell and National Security Adviser Condoleezza Rice, Mr Straw said President Bush's comments were "best understood by the fact that there are mid-term congressional elections coming up in November." However, Condoleezza Rice said: "This is not about American politics, and I assume that when the British government speaks about foreign policy, it's not about British politics." <sup>201</sup>

196. A different emphasis came from the Prime Minister, who in his speech during the Crawford summit with President Bush said that "where countries are engaged in the terror or WMD business, we should not shirk from confronting them. Some can be offered a way out, a route to respectability. I hope in time that Syria, Iran and even North Korea can accept the need to change their relations dramatically with the outside world. A new relationship is on offer. But they must know that sponsoring terrorism or WMD is not acceptable." 202

197. Where there was criticism of the President's speech, it focused on two areas of difference. Firstly, there was some concern about the effects that the speech would have on the policies of the countries mentioned as being part of the "axis". A number of EU members expressed concern that this notion would weaken reformers in Iran. The European Union has been engaging with regimes there and in North Korea in an attempt to promote gradual liberalization. There was also concern that these countries would be less likely, after the State of the Union address, to co-operate in the global campaign against terrorism.

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<sup>&</sup>lt;sup>194</sup> State of the Union address, 29 January 2002: http://www.whitehouse.gov/news/releases/2002/01.

<sup>&</sup>lt;sup>195</sup> *Ibid*.

John R Bolton Speech to the Heritage Foundation, Washington DC, 6 May 2002, "Beyond the Axis of Evil: Additional Threats from Weapons of Mass Destruction", http://www.heritage.org/library/lecture/hl743.html.

<sup>197</sup> See http://news.bbc.co.uk/hi/english/world/europe/newsid\_1810000/1810615.stm.

<sup>&</sup>lt;sup>198</sup> Financial Times, 13 February 2002.

<sup>199</sup> Bush warned over "axis of evil", Guardian, 5 February 2002.

<sup>200 &#</sup>x27;Straw accused of 'mocking' Bush,' CNN, 2 February 2002: http://www.cnn.com/2002/WORLD/europe/02/02/uk.straw/?related.

Bush warned over axis of evil,' *The Guardian*, 5 February 2002.

<sup>&</sup>lt;sup>202</sup> See http://www.pm.gov.uk/output/Page4756.asp.

198. We now consider two of the countries named by President Bush as members of the "axis of evil": Iran, and Iraq.

#### Iran

199. We heard in Washington in March that the response of democratic forces in Iran to the State of the Union address had been positive. According to those to whom we spoke, the compromise policies of the European Union are perceived to appease those in the existing government who are not genuinely committed to reform. However, Rosemary Hollis told us a different story: "Contrary to what the Americans expected, that speech did actually play into the hands of the hardliners in Iran and made it more difficult for the reformists ... Maybe there is an idea here that they can be bullied into a more co-operative attitude, but I think there is a complete misunderstanding of where the Iranians are coming from." Dr Hollis felt that the European countries had an important role to play here, "to keep the lines open ... it would be most unfortunate if the Iranians thought that everybody in the West really did think that they were no better than the Iraqi regime." 203

200. In our Report on British-US Relations of December 2001, we urged the Government to continue to engage with Iran constructively. The Government, in its response, reaffirmed its policy of "deepening our relations... [while maintaining] a robust dialogue on issues of concern to both HMG and our allies." To its credit, the Government has maintained this position since President Bush's "axis of evil" speech. When he gave evidence before the Committee in April 2002, Foreign Office Minister Ben Bradshaw said that "We have a different analysis of how we encourage change for the good in Iran and, as on a number of other areas, where we disagree with our American friends we are not reluctant to say so." 205

201. The US Embassy in London told us that Iran needs "to stabilize Afghanistan, end support for terrorism and for groups violently opposed to the Middle East peace process, end development of WMD and ballistic missiles, and end human rights abuses." We agree, but we believe that in the case of Iran these aims are more likely to be achieved by robust dialogue and critical engagement with reformers than by sending Tehran a list of non-negotiable demands. In our judgment, to bracket Iran with Iraq was mistaken: Iraq is an unredeemed autocracy; while Iran has a number of elements of democracy and has been moving, however falteringly, in the direction of reform. We conclude that the Government is right to maintain its constructive and—whenever necessary—critical engagement with Iran.

#### Iraq

202. Shortly after 11 September, some commentators speculated that Iraq might have been responsible for the attacks. <sup>207</sup> Iraq's enmity with the US and Britain and its refusal since 1998 to admit UN weapons inspectors to verify the dismantling of its weapons of mass destruction make it an obvious suspect as a state sponsor of terrorism. On 5 December, we asked the Foreign Secretary whether there would be a second phase of the war against terrorism. Though he replied that the war against terrorism would go on "in the general sense ... because we need to ensure the kind of threat that was before the world on 11th September cannot take place

<sup>&</sup>lt;sup>203</sup> Q177.

<sup>&</sup>lt;sup>204</sup> Cm. 5372, p.7.

<sup>&</sup>lt;sup>205</sup> Q280.

<sup>&</sup>lt;sup>206</sup> See Ev 105 (US reply), para 41.

For example, immediately after the attacks James Woolsey, the former CIA director, and Wesley Clarke, the former NATO commander in Europe, suggested that the terrorist operation probably had state sponsorship, and mentioned Iraq as a suspect.

again," he was unwilling to speculate about military action against particular targets. <sup>208</sup> Since December, Iraq has been identified as the state most likely to be targeted.

203. When we visited Washington DC in March, we gained some sense of the "widespread agreement" between government agencies over the need to proceed against Iraq, but also of the uncertainties over exactly how to proceed. Some of those with whom we discussed the issue suggested that the overthrow of Saddam Hussein might be possible without full scale invasion. Others have pointed to the difficulties associated with administering a defeated Iraq post-invasion. In mid-March, what was clear was that huge resources were being devoted to the development of plans to act against the Iraqi regime, and that few had faith in the UN route towards control of Iraq's weapons of mass destruction.

Policy on 'regime change' in Iraq

204. President Bush's State of the Union address initiated an energetic debate about whether and when the United States would take military action against Iraq. Secretary of State Colin Powell stated before a House International Relations Committee hearing on 6 February that "The President is determined to keep [the issue of Iraq] on the front burner and is looking at all the options that are available for him to deal with this in a decisive way... We still have a US policy of regime change because we believe Saddam Hussein should move on and that the Iraqi people deserve better leadership." Secretary Powell also suggested that "regime change is something the United States ... might have to do alone." 11

205. We heard during our visit to Washington in March that Vice President Cheney had not heard anything unexpected during his tour of the Middle East, one aim of which was to gauge and promote support for action against Iraq. On 6 April, President Bush said that "the policy of my government is the removal of Saddam and... all options are on the table... Maybe I should be a little less direct and be a little more nuanced, and say we support regime change."<sup>212</sup>

206. However, the implications of continuing conflict in Israel and the occupied territories, and the difficulty of mounting a military operation in Iraq, may have contributed to the Administration's apparent decision to postpone military action. By late April, senior administration, Pentagon and military officials had evidently reached a "consensus... that there is little chance for a military coup to unseat [Saddam] Hussein from within" and that not "even an expanded version of the strategy used to oust the Taliban from Afghanistan would work... Hussein's military... is strong enough to defeat any confrontation by proxy." Considerations over the security of oil supplies were cited as "another reason to put off any offensive against Iraq". 213

207. UK policy on regime change in Iraq was enunciated by the Prime Minister during the Crawford summit in April 2002: "I can say that any sensible person looking at the position of Saddam Hussein and asking the question, 'Would the region, the world, and not least the ordinary Iraqi people, be better off without the regime of Saddam Hussein?', the only answer anyone could give to that question would be 'yes'." The Prime Minister appears to have

<sup>209</sup> See Seymour Hersh, 'The debate within,' *The New Yorker*, 11 March 2002.

<sup>210</sup> See, for example, http://www.rferl.org/nca/features/2002/02/11022002093714.asp.

 $<sup>208 \, \</sup>text{O}44$ 

<sup>211 &#</sup>x27;Powell says US is examining full range of options on Iraq,' US Department of State press release: http://usinfo.state.gov/topical/pol/arms/02020605.htm.

<sup>&</sup>lt;sup>212</sup> See Crawford Press Conference at http://www.cnn.com/2002/US/04/06/bush.blair.transcript/.

<sup>&</sup>lt;sup>213</sup> See *New York Times*, 28 April 2002.

<sup>214</sup> See http://www.cnn.com/2002/US/04/06/bush.blair.transcript/.

chosen his words carefully, and deliberately to have stopped short of supporting regime change by force.

208. On 25 April, Foreign Office Minister Denis MacShane said in Westminster Hall: "To debate whether a change of regime is desirable in Iraq—it certainly is, in my view—is a mistake. Our discussion on Iraq should focus on trying to press, and if necessary force Saddam Hussein to comply with the United Nations resolutions on weapons inspections." There is thus a difference of emphasis between the British and American positions on regime change.

# 209. We recommend that in its response to this Report the Government clarify whether its policy is to bring about 'regime change' in Iraq.

Policy on weapons inspectors

- 210. On 12 March, the Foreign Secretary told the House that "in our judgment it is more important than ever that inspectors from the United Nations Monitoring, Verification and Inspection Commission and the International Atomic Energy Agency be given access to all relevant sites, to be allowed to inspect freely wherever they want to, at whatever time they wish to. That is the action which Saddam Hussein and the Iraqi regime must take to come back into the international community, for what lies at the heart of this issue is the rule of international law."<sup>216</sup>
- 211. Our predecessor Committee, in its July 2000 Report on Weapons of Mass Destruction, urged the Government "strongly to resist any attempt to dilute the international inspectors' powers of inspection or to compromise with Iraq on the composition of the Commission." Iraq could attempt to bypass UNMOVIC completely, for example by acceding to the Chemical Weapons Convention (CWC), thereby opening its chemical facilities to the scrutiny of OPCW inspectors. Such a move would, however, leave Iraq's nuclear and biological weapons programmes unmonitored. We therefore remain strongly of the view that UNMOVIC should return to Iraq and we share the Government's position that this should be on the basis that inspections may be carried out at any time, in any place.

# 212. We recommend that the Government propose a deadline for Iraqi compliance with UN Security Council Resolutions requiring Iraq to allow inspection of its nuclear, chemical and biological weapons programmes.

The legal basis for military action against Iraq

213. The legal basis for an attack on Iraq would depend on the circumstances in which such action was taken. On 16 April, we asked the FCO for a memorandum "setting out the Government's interpretation of the circumstances in which further military action against Iraq—unrelated to ongoing reinforcement of the no-fly zones—would be covered by existing Security Council Resolutions; if so, by which Resolutions such actions would be covered; and if not, on what legal basis such action might be carried out." The Government replied that:

"The Committee will appreciate that it is difficult to answer a hypothetical question precisely. In general terms we would regard the use of force against

<sup>&</sup>lt;sup>215</sup> Official Report, 25 April 2002, col. 176WH.

<sup>&</sup>lt;sup>216</sup> Official Report, 12 March 2002, col. 744.

<sup>&</sup>lt;sup>217</sup> Eighth Report from the Foreign Affairs Committee, Session 1999–2000, *Weapons of Mass Destruction*, HC 407, para 23.

Iraq, or indeed any State, as lawful if it had been authorised by the United Nations Security Council, or were in exercise of the inherent right of individual or collective self-defence, or, exceptionally, were carried out to avert an overwhelming humanitarian catastrophe."

214. Mr Straw replied in the same vein on 5 December, that "if country X received very good information that country Y or terrorist group Z is about to attack it, and takes action in self-defence to avoid that attack, it is acting consistently with Article 51 but the exact circumstances are going to vary." The FCO memorandum goes on:

"As to the relevant resolutions, following Iraq's invasion and annexation of Kuwait, the Security Council authorised the use of force in resolution 678 (1990). This resolution authorised coalition forces to use all necessary means to force Iraq to withdraw, and to restore international peace and security in the area. It provided a legal basis in addition to the right of collective self-defence for operation Desert Storm, which was brought to an end by the cease-fire set out by the Council in resolution 687 (1991). The conditions for the cease-fire in that resolution (and subsequent resolutions) imposed obligations on Iraq with regard to the elimination of WMD and monitoring of its obligations. Resolution 687 (1991) suspended but did not terminate the authority to use force in resolution 678 (1990).

A violation of Iraq's obligations which undermines the basis of the cease-fire in resolution 687 (1991) can revive the authorisation to use force in resolution 678 (1990). Most recently, in resolution 1205 (1998) the Council condemned Iraq's decision to cease co-operation with UNSCOM as a flagrant violation of resolution 687 (1991). This had the effect of reviving the authorisation to use force in resolution 678 (1990), which provided the legal basis for our participation in operation Desert Fox. ...

We do not rule out the need to take further military action in future. Whether further action by the Security Council was needed would depend on the circumstances at the time. But as we have always made clear, any military action the UK undertakes anywhere in the world will be carried out in accordance with international law."

215. All the UN Security Council resolutions cited by the FCO pertain to the specific case of Iraq. The FCO does not mention Security Council resolutions 1368 and 1373, which were passed after 11 September and which would allow the United States to act in self-defence under Article 51 of the UN Charter if had information that it was facing an imminent threat of attack from Iraq. This is consistent with the Foreign Secretary's statement to us on 5 December, that the question of Iraq's WMD is "a separate matter from culpability for the atrocities of 11th September. As I have said before... I have seen no evidence to link the Iraqi regime with Osama bin Laden, al Qaeda or the Taliban." The Foreign Secretary expressed grave concern about Iraq's weapons development, and stated the Government's belief that "dramatic steps... have to be taken." Again, in April 2002, we asked Ben Bradshaw whether sufficient evidence existed to link Iraq with al Qaeda which could give any basis in international law for military intervention in Iraq: he answered with a straight "No". 220

<sup>&</sup>lt;sup>218</sup> Q50.

<sup>&</sup>lt;sup>219</sup> Q52.

<sup>&</sup>lt;sup>220</sup> Q272.

- 216. The United Kingdom's position, therefore, can be summarised as follows: an attack against Iraq could be justified under international law in response to Iraqi aggression or to prevent imminent Iraqi aggression. It could not be taken under the UN Security Council Resolutions authorising military force against the perpetrators of the events of 11 September, unless clear evidence existed of a link between Iraq and the perpetrators.
- 217. The US view is set out in the memorandum from their London Embassy: "When governments violate the rights of their people on a large scale—be it as an act of conscious policy or the byproduct of a loss of control—the international community has the right, and sometimes even the obligation, to act. ... Countries affected by states that abet, support, or harbor international terrorists, or are incapable of controlling terrorists operating from their own territory, have the right to take action to support their own citizens." <sup>221</sup>
- 218. That view is consistent with what the Director of Policy Planning in the State Department, Richard Haass, described recently as a "body of ideas ... about what you might call the limits to sovereignty. Sovereignty entails obligations. One is not to massacre your own people. Another is not to support terrorism in any way. If a government fails to meet these obligations, then it forfeits some of the advantages of sovereignty... Other governments, including the United States, gain the right to intervene. In the case of terrorism, this can even lead to a right of preventive... self-defence. You essentially can act in anticipation if you have grounds to think it's a question of when, and not if, you're going to be attacked."
- 219. We held talks with Mr Haass when we visited Washington DC in November 2001. We discussed with him then his ideas about how the US should work with allies. Haass explained his view that the US needs allies—"we can't impose our ideas on everyone"—but that "posses" of such allies should be coalesced according to the requirements of specific situations rather than necessarily through existing international institutions. "The goal of US foreign policy," he argues, "should be to persuade other major powers to sign on to certain key issues as to how the world should operate: opposition to terrorism and weapons of mass destruction, support for free trade, democracy, markets."
- 220. The international coalition that has been assembled to fight terrorism since 11 September resembles in many ways Haass's "posse." It has no formal structure and the US can include or exclude partners according to whether they are willing to go along with US policy, or not: these partners simply have to choose whether they are "with us or against us." The benefits for the US of the use of this kind of coalition are clear. The US can avoid appearing to be acting unilaterally, yet it is not bound by the need to proceed through established international procedures and laws, nor must it make compromises to partners through joint decision making (as it was in the Kosovo war, where it acted through NATO).
- 221. Our discussions with a number of US officials in Washington and New York in March 2002 confirmed that the views articulated by Richard Haass have wide currency. To take the most immediate example, in the case of Iraq we gained the impression that established international legal standards would be of secondary importance compared with the need to take action in a world which has "seen an evolution in how the international community views sovereignty." The impression we obtained from those with whom we discussed the question

222 "The Debate Within", Seymour Hersh, *The New Yorker*, 11 March 2002:

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<sup>&</sup>lt;sup>221</sup> See Ev 102 (US reply), para 7.

http://www.newyorker-com/printable/?fact/020311fa\_FACT.

See Ev 102 (US reply), para 6.

was that, instead of establishing first whether military action would be legal, the US would act first and then use international law to defend its action retrospectively if it were possible to do so.

- 222. Currently such a right of pre-emptive attack exists only where the state concerned has information that it is under the threat of imminent attack. The notion that the US Administration has drawn up a new "body of ideas" which gives it the "right" to pre-emptive intervention suggests that either the Administration has a different interpretation of existing international law from that which generally persists, or it has limited confidence in the legal base for proposed action on the existing evidence. Professor Roberts characterises this as "a school of thought that in a war against brutal terrorists, certain normal restraints and safeguards might not apply."
- 223. A further articulation of the US Government's view of the right to pre-emptive military action came recently from the President himself. Speaking at the West Point military academy President Bush said "We must take the battle to the enemy, disrupt his plans, and confront the worst threats before they emerge." He went on to say "Containment is not possible when unbalanced dictators with weapons of mass destruction can deliver those weapons on missiles or secretly provide them to terrorist allies... In the world we have entered, the only path to safety is the path of action. And this nation will act." 225
- 224. The Committee recommends that the Foreign and Commonwealth Office in its response to this report sets out the British Government's view as to the circumstances in which a pre-emptive military strike would be legally justified.
- 225. Differing interpretations of international law could damage the cohesion of the coalition. As Professor Adam Roberts wrote to us: a "perception that the states involved in a coalition are observing basic international standards may contribute to public support for military operations within the member states; support (or at least tacit consent) from other states for coalition operations; and avoidance of disputes within and between coalition member states. In short, there can be strong prudential considerations (not necessarily dependent on reciprocity in observance of the law by all the parties to a war) which militate in favour of observing the laws of war."<sup>226</sup>
- 226. Existing international laws and treaties safeguard the United Kingdom's security and interests, and we believe that it remains firmly in Britain's interests to strengthen the international legal standards and principles enshrined in the UN Charter and other international documents and treaties. In particular, the United Nations Security Council is the forum within which the differences between states which are not natural allies can be expressed and worked out. The international war against terrorism will only achieve lasting success if it can command the widest possible measure of international support.
- 227. The Government specified in its "Campaign Objectives" document that "any action taken to achieve our objectives will need to be in conformity with international law, including the UN Charter and international humanitarian law." We strongly endorse this statement. It is in the United Kingdom's interests to ensure that international legal standards are respected and strengthened globally, and the war against terrorism should not be permitted to become an exception to this rule. We recommend that the Government work with the United States

This is articulated in Article 51 of the UN Charter—see footnote 65 above.

See West Point graduation speech at http://www.whitehouse.gov/news/releases/2002/06/20020601-3.html

<sup>&</sup>lt;sup>226</sup> See Ev 84, para 4.

FCO website: http://www.fco.gov.uk/news/dynpage.asp?Page=10844&Theme=34&Template=999.

to ensure that any action taken against Iraq, or against any other state in the war against terrorism, conforms with international law.

Making the case for further military action

- 228. We described in paragraphs 33 to 40 above the Government's publication of documents outlining its objectives in the war against terrorism. In the first 'phase' of the war, this helped to hold together the international coalition in advance of military action in Afghanistan.
- 229. The international coalition against terrorism was initially very strong, in part because its objectives were so clearly defined. If military action is to be taken against Iraq—or against any other state—the objectives will have to be no less clearly defined, and a full justification will have to be provided.
- 230. The Government promised to publish a dossier of evidence incriminating Iraq, which was presumed to have similar objectives to the Osama bin Laden "responsibility" document detailed above. However, no dossier of new information has been produced. According to the *Financial Times*, intelligence officials "believe Downing Street and sectors of the Foreign Office acted precipitately by letting it be known that such a dossier was in the pipeline before Easter and before a final draft had been fully cleared through the internal Whitehall machinery." On 19 April, the "Foreign Office confirmed that the dossier no longer had a firm publication date, and that a final draft had still to be agreed." A few days later, Mr Bradshaw told us that "We will put more evidence in the public domain and we will publish in whatever form we think is the most effective" effective"
- 231. In late April 2002, we asked the Foreign and Commonwealth Office to supply the Committee with a copy of the dossier. In reply, the FCO stated that the document is still being prepared, and that no decision has yet been taken on when to publish it.<sup>231</sup> From this reply, we infer that the dossier will be published at some point.
- 232. Then, on 1 May, the Government published information on material which is believed to remain in Iraq, and which could be used to develop or to deliver weapons of mass destruction, as follows:
  - "The latest assessment of material unaccounted for by UNSCOM inspectors which has potential implications for Iraq's CBW programmes is as follows:
  - up to 3,000 tonnes of precursor chemicals, approximately 300 tonnes of which, in the Iraqi CW programme, were unique to the production of VX nerve agent;
  - up to 360 tonnes of bulk CW agent including 1.5 tonnes of VX:
  - over 30,000 special munitions for delivery of chemical and biological agents;
  - large quantities of growth media acquired for use in the production of biological weapons—enough to produce over three times the amount of anthrax Iraq admits to having manufactured.

See paragraph 36.

<sup>&#</sup>x27;Blair dossier on Iraq is delayed indefinitely,' *Financial Times*, 20/21 April 2002, p.2.

<sup>&</sup>lt;sup>230</sup> Q293.

<sup>&</sup>lt;sup>231</sup> See Ev 107.

... [These findings] reinforce our judgement that Iraq's chemical and biological capabilities are substantial and a very real danger to the region and the wider world."232

The list constitutes alarming reading. It is information of this kind which, in combination with other information, might eventually persuade coalition allies, their governments and people, that further action is justified.

233. We recommend that the Government follow the precedent which it set in the period leading up to military action in Afghanistan, and publish the fullest possible documentation on the need for any further military action, before such action is seriously contemplated. While nothing should be published which might compromise sources or methods of intelligence, the Government must try to secure the widest possible support in Parliament and among the British people if it is proposing to risk the lives of British servicemen and women as part of a further phase of the war against terrorism.

#### Maintaining the international coalition

234. Vice President Dick Cheney visited Bahrain, Egypt, Jordan, Israel, Kuwait, Oman, Qatar, Saudi Arabia, Turkey and the United Arab Emirates in March 2002. The visit was widely perceived as an attempt to win support in the region for action against Iraq. However, the reaction he received from the governments of these countries was distinctly cool, particularly in the light of escalating violence in the Middle East: the international context had moved in Iraq's favour as a consequence of the escalation of the intifada, and the Iraqi leader was received with some warmth by fellow Arab leaders at the Council of the League of Arab States in Beirut on 26-28 March 2002.

235. The British Prime Minister, Foreign Secretary and other Ministers have also travelled widely and frequently in order to reassure nervous allies, bolster the international coalition, and make the case for a robust response to international terrorism. Such direct contacts are very necessary. As even the awful memory of 11 September fades, and as the bloody conflict in the Middle East continues, the unity and purpose of the coalition will come under increasing strain. Then, the skills of its leading members will be put to the test.

236. The US Embassy in London provided us with a statement of their administration's attitude towards the international coalition: "The US has demonstrated that it can and will act alone when necessary. By the same token, we do not take lightly the costs to ourselves and to others when we forego participation in some multilateral initiative."<sup>233</sup> We take heart from this statement, but we do not underestimate the difficulties which may lie ahead in preserving the "multilateral initiative" which is the international coalition against global terrorism.

237. We commend Ministers for what they have already done to build and maintain the international coalition against terrorism. We recommend that the Government continue to give a high priority to maintaining the coalition; to achieving the full commitment of its members; and in particular to persuading the United States of the value of continuing to operate through it.

 $<sup>^{232}</sup>$  Official Report, 2 May 2002, col. 929W .

#### **CONCLUSION**

- 238. The war against terrorism is an unplanned and unsought conflict. But when the first hijacked airliner struck the World Trade Center, war became necessary and, once entered upon, war must be pursued vigorously and with all appropriate means.
- 239. We believe that the international coalition leadership, especially that of the United States and the United Kingdom, has performed remarkably well. Resolve and determination have been tempered with restraint and sensitivity. The political leaderships of both countries deserve support and understanding.
- 240. The military campaign is likely to be long and may spread beyond Afghanistan. Coalition forces directly engaged in or supporting the campaign are performing a difficult and dangerous task with the skill and dedication which has come to be expected of them, but which is greatly appreciated and admired.
- 241. We concede that the great advantage of hindsight is that it allows us 20/20 vision of the precursors of war which were previously unseen, misinterpreted, or ignored. If one lesson comes out of our consideration of why the attacks of 11 September 2001 were able to succeed, it is that priority must be given to the gathering, assessment and use of high-grade intelligence information. Without that information, this country and its allies are appallingly vulnerable.
- 242. But to 'know thine enemy' is not enough. We also need to determine how the conditions that have contributed to the development of terrorism can be removed, or at least reduced. The answers to those questions will provide a far safer world than even the best intelligence and preparedness can provide. As the war against terrorism proceeds, this country and its coalition allies must seek out those answers, and must learn about and deal sensitively with the causes of terrorism.

#### **ANNEX**

## United Nations and other international Conventions against International Terrorism

Dating back to 1963, these agreements provide the basic legal tools to combat international terrorism in its many forms—from the seizure of aircraft to hostage taking to the financing of terrorism. Many have been ratified by the majority of countries around the world, and only the most recent one is not yet in force. Such agreements have been developed by the General Assembly, the International Civil Aviation Organization (ICAO), the International Maritime Organization (IMO) and the International Atomic Energy Agency (IAEA).

#### The instruments are the:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft, adopted in Tokyo in 1963; 172 states parties as of 17 September 2001; authorizes the airplane commander to impose reasonable measures on any person who has committed or is about to commit such acts, and requires states parties to take custody of offenders; developed by ICAO;
- Convention for the Suppression of Unlawful Seizure of Aircraft, The Hague, 1970; 174 states parties; requires parties to punish hijackings by "severe penalties", and either extradite or prosecute the offenders; developed by ICAO;
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Montreal, 1971; 175 states parties; requires parties to punish offences by "severe penalties", and either extradite or prosecute the offenders; developed by ICAO; supplemented by the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, signed at Rome on 10 March 1988; 48 States parties; extends the requirements of the Convention to fixed platforms such as those engaged in the exploitation of offshore oil and gas;
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Montreal, 1988; 107 states parties; extends the provisions of the Convention to encompass terrorist acts at airports;
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, New York, 1973; adopted by the General Assembly; 107 states parties; requires parties to criminalize and punish attacks against state officials and representatives;
- Convention against the Taking of Hostages, New York, 1979; adopted by the General Assembly; 96 states parties; parties agree to make the taking of hostages punishable by appropriate penalties; to prohibit certain activities within their territories; to exchange information; and to carry out criminal or extradition proceedings;
- Convention on the Physical Protection of Nuclear Material, Vienna, 1980; 69 states parties; obliges parties to ensure the protection of nuclear material during transportation within their territory or on board their ships or aircraft; developed by IAEA;
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, Rome, 1988; 56 states parties; obliges parties to either extradite or prosecute alleged offenders who have committed unlawful acts against ships, such as seizing ships by force and placing bombs on board ships; developed by IMO; supplemented by the

- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, Rome, 1988; 51 states parties; extends the requirements of the Convention to fixed platforms such as those engaged in the exploitation of offshore oil and gas;
- Convention on the Marking of Plastic Explosives for the Purpose of Detection, Montreal, 1991; 68 States parties; seeks to curb the use of unmarked and undetectable plastic explosives; developed by ICAO;
- International Convention for the Suppression of Terrorist Bombings, New York, 1997; adopted by the General Assembly; 29 states parties; seeks to deny "safe havens" to persons wanted for terrorist bombings by obligating each state party to prosecute such persons if it does not extradite them to another state that has issued an extradition request;
- International Convention for the Suppression of the Financing of Terrorism, New York, 1999; adopted by the General Assembly; 4 states parties; obligates states parties either to prosecute or to extradite persons accused of funding terrorist activities, and requires banks to enact measures to identify suspicious transactions; will enter into force when ratified by 22 states.

The Legal Committee of the General Assembly is elaborating a convention for the suppression of acts of nuclear terrorism and a comprehensive convention on the elimination of terrorism. The Declaration on Measures to Eliminate International Terrorism, adopted by the Assembly in 1994, and the Declaration to supplement the 1994 Declaration, adopted in 1996, condemn all acts and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, and urge all states to take measures at the national and international level to eliminate international terrorism.

The Vienna-based United Nations Terrorism Prevention Branch researches terrorism trends and assists countries in upgrading their capacities to investigate—but, above all, to prevent terrorist acts. The Branch is an arm of the United Nations Office for Drug Control and Crime Prevention.

(See also - http://untreaty.un.org/English/Terrorism.asp).

#### PROCEEDINGS OF THE COMMITTEE RELATING TO THE REPORT

### TUESDAY 11 JUNE [AFTERNOON SITTING]

#### Members present:

#### Mr Donald Anderson, in the Chair

Mr David Chidgey Sir Patrick Cormack Mr Andrew Mackinlay

Mr John Maples Mr Greg Pope

Mr Fabian Hamilton Mr Eric Illsley

Sir John Stanley

Draft Report (Foreign Policy Aspects of the War against Terrorism), proposed by the Chairman, brought up and read.

Ordered. That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 8 read and agreed to.

Paragraph 9 read, amended and agreed to.

Paragraph 10 read and agreed to.

Paragraph 11 read, amended and agreed to.

Paragraphs 12 to 17 read and agreed to.

Paragraph 18 read, amended and agreed to.

A paragraph—(*The Chairman*)—brought up, read the first and second time and inserted (now paragraph 19).

Paragraphs 19 and 20 (now paragraphs 20 and 21) read, amended and agreed to.

Paragraph 21 (now paragraph 22) read and agreed to.

Paragraphs 22 and 23 (now paragraphs 23 and 24) read, amended and agreed to.

Paragraphs 24 to 49 (now paragraphs 25 to 50) read and agreed to.

Paragraph 50 (now paragraph 51) read, amended and agreed to.

Paragraphs 51 and 52 (now paragraphs 52 and 53) read and agreed to.

Paragraph 53 (now paragraph 54) read, amended and agreed to.

Paragraphs 54 and 55 (now paragraphs 55 and 56) read and agreed to.

Paragraph 56 (now paragraph 57) read, amended and agreed to.

Paragraphs 57 to 67 (now paragraphs 58 to 68) read and agreed to.

Paragraph 68 (now paragraph 69) read, amended and agreed to.

Paragraphs 69 to 100 (now paragraphs 70 to 101) read and agreed to.

Paragraph 101 (now paragraph 102) read, amended and agreed to.

Paragraphs 102 to 104 (now paragraphs 103 to 105) read and agreed to.

Paragraph 105 (now paragraph 106) read, amended and agreed to.

Paragraphs 106 to 117 (now paragraphs 107 to 118) read and agreed to.

Paragraphs 118 to 120 (now paragraphs 119 to 121) read, amended and agreed to.

Paragraphs 121 and 122 (now paragraphs 122 and 123) read and agreed to.

Paragraph 123 (now paragraph 124) read, amended and agreed to.

Paragraph 124 (now paragraph 125) read and agreed to.

A paragraph—(Sir John Stanley)—brought up, read the first and second time and inserted (now paragraph 126).

Paragraphs 125 to 133 (now paragraphs 127 to 135) read and agreed to.

Paragraph 134 (now paragraph 136) read, amended and agreed to.

Paragraphs 135 to 148 (now paragraphs 137 to 150) read and agreed to.

Paragraph 149 read, as follows:

149. We deeply regret this action of the United States Administration. We acknowledge the concerns of the US, but we believe they could and should have been dealt with by diplomacy. We recommend that the Government seek to allay the concerns of the US Administration about the International Criminal Court, with a view to persuading it to reconsider its renunciation of the ICC Treaty.

Amendment proposed, in line 1, to leave out "We deeply regret this action of the United States Administration."—(Mr John Maples).

The Committee divided.

Ayes, 3

Sir Patrick Cormack Mr John Maples Mr Greg Pope

Noes, 5

Mr David Chidgey Mr Fabian Hamilton Mr Eric Illsley Mr Andrew Mackinlay Sir John Stanley

Ouestion put, That the paragraph stand part of the Report.

The Committee divided.

#### Ayes, 5

Mr David Chidgey Mr Fabian Hamilton Mr Eric Illsley

Mr Andrew Mackinlay Sir John Stanley

Noes, 3

Sir Patrick Cormack Mr John Maples Mr Greg Pope

Paragraph agreed to (now paragraph 151).

Paragraphs 150 to 167 (now paragraphs 152 to 169) read and agreed to.

Paragraph 168 (now paragraph 170) read, amended and agreed to.

Paragraphs 169 to 179 (now paragraphs 171 to 181) read and agreed to.

Paragraph 180 (now paragraph 182) read, amended and agreed to.

Paragraphs 181 and 202 (now paragraphs 183 and 204) read and agreed to.

Paragraph 203 (now paragraph 205) read, amended and agreed to.

Paragraphs 204 to 220 (now paragraphs 206 to 222) read and agreed to.

Paragraphs—(Sir John Stanley)—brought up, read the first and second time and inserted (now paragraphs 223 and 224).

Paragraphs 221 and 222 (now paragraphs 225 and 226) read and agreed to.

Paragraph 223 (now paragraph 227) read, amended and agreed to.

Paragraphs 224 to 227 (now paragraphs 228 to 231) read and agreed to.

Paragraph 228 (now paragraph 232) read, amended and agreed to.

Paragraphs 229 to 237 (now paragraphs 233 to 241) read and agreed to.

Paragraph 238 (now paragraph 242) read, amended and agreed to.

Annex read, amended and agreed to.

Resolved, That the Report, as amended, be the Seventh Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

*Ordered*, That the provisions of Standing Order No. 134 (Select Committees (reports)) be applied to the Report.

Several papers were ordered to be appended to the Minutes of Evidence.

*Ordered*, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.—(*The Chairman*.)

[Adjourned until Thursday 13 June at Ten o'clock.

#### LIST OF WITNESSES

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